

Joint Legislative Study Committee on Special Education & Regulation

Final Report

July 30, 2001

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Joint Legislative
Study Committee
On
Special Education & Regulation

Final Report

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Joint Legislative Study Committee Special Education & Regulation Final Report

Background

The Joint Legislative Study Committee on Special Education and Regulation was established pursuant to Laws 1999, Chapter 67 (SB 1317). The Committee was charged with the following duties:

- 1) To make recommendations for possible modifications to the current special education finance formulas and systems.
- 2) To examine the potential impact of the new federal Individuals with Disabilities Education Act (IDEA) regulations including any regulations associated with suspension or expulsion of children with disabilities.
- 3) To examine and report recommendations regarding the formation of a group B special education risk management pool.

The Committee was to report its findings and recommendations to the Governor, Speaker of the House and the President of the Senate on or before December 1, 2000. The Committee was repealed from and after December 31, 2000.

Committee Membership:

Senator Huppenthal, Cochairman
Senator Aguirre
Senator Bennett

Representative Knaperek, Cochairman
Representative Gray
Representative Norris

Ms. Delia Alston
Ms. Marolyn Haws
Ms. Linda Irvin
Mr. Steve Kaipers
Mrs. Mimi Rogers

Ms. Teri Graf
Mr. Michael Hunter
Ms. Danielle Jones
Mr. Steve Mishlove

Final Committee Recommendations

Funding

1. Support the establishment of a Catastrophic Fund: create a fund to address catastrophic situations associated with the high costs of providing appropriate services to pupils requiring expensive services. The fund should focus on only the most needy situations in which the cost of providing required services to a pupil can be demonstrated as catastrophic and in which prudent financial decisions have been made.
2. Support the concept of parental choice grants for special education pupils to attend either a public or private school.
3. Support a House Concurrent Memorial to be sent to the President of the United States and Congress requesting that the federal government increase special education support to the 40% level established by federal law.
4. Support the establishment of a Services Integration Fund: develop a pilot program for school districts to utilize monies to assist in paying for special education services through the integration of services at the local level. School districts must apply to the Arizona Department of Education for grants from the fund. Monies could not be used to supplant any existing special education funding.

5. Analyze the impact of Proposition 301 on the base support level and , if necessary, fully fund the Group B weights per the latest Special Education Cost Study by increasing the Group B weight multipliers. If Proposition 301 increases the base support level enough to cover the shortfall in funding as concluded in the December 1999 special Education Cost Study, the there is no need to increase the Group B weight multipliers.
6. Further research the concept of Placement Neutral Funding by blending existing Group B weights for resource and self-contained categories.

Medicaid

1. Support the clarification of reimbursement provisions by ensuring that a significant portion of the monies goes to special education services.
2. Ensure that Medicaid and IDEA revenues are included in the Special Education Cost Study.

Special Education Cost Study

1. Require the Arizona Department of Education to study Group A disability/special education weights and associated costs in the biennial Special Education Cost Study.
2. Open the request for proposal (RFP) process up to groups with expertise in the field of special education and funding which are located outside of Arizona.

Miscellaneous:

1. Support the continuation of the Joint Legislative Study Committee on Special Education and Regulations. The Committee may consider reviewing the current composition and potentially add new positions and members. Three recommended positions include a member of the Governor's Council on Developmental Disabilities, a director of financial services for a school district and a representative from the Arizona Schools for the Deaf and Blind.
2. Support the requirement of the Arizona Department of Education to complete a biennial report that would contain research on the best practices of special education programs in Arizona and around the country. The report shall contain an evaluation of programs in existence and determine each program's effectiveness and appropriateness. The Arizona Department of Education shall establish a clearinghouse Internet website for the dissemination of such information and other special education information to be used by the public and school personnel. The reporting requirements would begin July 1, 2002 to coincide with the State's fiscal year.
3. Support the requirement that the Auditor General complete an audit that would occur every five years beginning in July 2003. The Auditor General would be required to audit a minimum of 10% of special education programs in Arizona in the following areas:
 - a) appropriateness, effectiveness and monitoring of these programs,
 - b) the severity of labeling issues (are children being placed into higher classifications for the purpose of generating more money?)
 - c) shortages of certificated employees and service providers,
 - d) both voucher programs currently in existence, and
 - e) ADE's biennial report described in paragraph two aboveThe audits must include rural schools and programs.
4. Support legislation which would affect the transfer of educational rights to parents or guardians for pupils who reach the age of majority but are still in school. The rights would be revocable at any time.
5. Continue to research the problem with the transfer of assistive devices between schools, districts and schools and families.

Legislative Update

During the 1st Regular Session of the 45th Legislature, the following legislation was passed based on the recommendations of the Joint Legislative Study Committee on Special Education and Regulation.

HB 2380 – Chapter 356 – special education integration pilot program

HB 2380 requires the Department of Education in collaboration with the Department of Economic Security, the Department of Health Services, the Administrative Office of the Courts and the Department of Juvenile Corrections to develop a pilot program in five school districts to streamline, expedite and coordinate special education services through the integration of those services at the local level.

Additionally, HB 2380 requires the Department of Education to submit a report by December 1, 2002 that summarizes the results of the pilot program and recommendations for proposed legislation.

HCM 2001 special education; full federal funding

HCM 2001 requests that the President and Congress provide the full 40% federal funding for special education programs authorized by federal law.

List of Appendixes

Appendix A: Laws 1999, Chapter 67 (SB 1317)

Appendix B: Committee Agendas

Appendix C: Committee Minutes

Appendix A:
Enabling Legislation

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House Engrossed Senate Bill

FILED

State of Arizona
Senate
Forty-fourth Legislature
First Regular Session
1999

**Betsey Bayless
Secretary of State**

CHAPTER 67

SENATE BILL 1317

AN ACT

AMENDING SECTION 15-844, ARIZONA REVISED STATUTES; RELATING TO EDUCATION OF EXCEPTIONAL CHILDREN.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 15-844, Arizona Revised Statutes, is amended to read:

15-844. Suspension and expulsion proceedings for children with disabilities

Notwithstanding sections 15-841, AND 15-842 and ~~15-843~~, the suspension or expulsion of children with disabilities, as defined in section 15-761, shall be in accordance with ~~rules which are prescribed by the state board of education and which shall incorporate the change of placement requirements of the individuals with disabilities education act (20 United States Code sections 1410 through 1485) and applicable case law regarding suspension and expulsion of children with disabilities~~ FEDERAL REGULATIONS ISSUED PURSUANT TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Sec. 2. Joint legislative committee on special education and regulations; membership; duties; report

A. The joint legislative committee on special education and regulations is established consisting of the following members:

1. Three members of the senate, not more than two of whom shall represent the same political party. The president of the senate shall appoint these members and designate a member to cochair the committee.

2. Three members of the house of representatives, not more than two of whom shall represent the same political party. The speaker of the house

1 of representatives shall appoint these members and designate a member to
2 cochair the committee.

3 3. One member of the public with expertise in school district finance
4 who is appointed by the president of the senate.

5 4. One administrator of a school or school district who has experience
6 in both regular and special education who is appointed by the speaker of the
7 house of representatives.

8 5. One person who is the parent of a child enrolled in a special
9 education program in this state who is appointed by the president of the
10 senate.

11 6. One person who is the parent of a child enrolled in a regular
12 education program in this state who is appointed by the speaker of the house
13 of representatives.

14 7. One person employed in the exceptional student services division
15 of the department of education who is appointed by the superintendent of
16 public instruction.

17 8. One certificated teacher who has experience in special education
18 who is appointed by the speaker of the house of representatives.

19 9. One certificated teacher who has experience in regular education
20 who is appointed by the president of the senate.

21 10. One person who provides residential special education services who
22 is appointed by the president of the senate.

23 11. One person who has one or more disabilities who is appointed by the
24 speaker of the house of representatives.

25 B. The committee shall make recommendations for possible modifications
26 to the current special education finance formulas and systems based on a
27 consideration of the following:

28 1. The federal requirements for a placement neutral funding system.

29 2. The appropriateness of assigning pupils to categories for funding
30 purposes.

31 3. The complexity of the current special education funding formulas
32 and systems.

33 4. The potential problems presented in a weighted system when the base
34 level is not increased to adjust for inflation.

35 5. The impact of funding systems on the provision of necessary
36 services in the least restrictive environment and the ability to make
37 efficient and effective use of available funding.

38 6. The consideration of special education funding systems within the
39 context of overall school funding.

40 7. The draft findings or the final report from the office of special
41 education programs review of special education programs in this state.

42 8. Any other relevant or appropriate considerations.

43 C. The committee shall examine the potential impact of the new federal
44 individuals with disabilities education act regulations including any

1 of representatives shall appoint these members and designate a member to
2 cochair the committee.

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39 context of overall school funding.

40 7. The draft findings or the final report from the office of special
41 education programs review of special education programs in this state.

42 8. Any other relevant or appropriate considerations.

43 C. The committee shall examine the potential impact of the new federal
44 individuals with disabilities education act regulations including any

1 regulations associated with suspension or expulsion of children with
2 disabilities.

3 D. The committee shall examine and report recommendations regarding
4 the formation of a group B special education risk management pool.

5 E. The committee may use the services and expertise of the Arizona
6 schools for the deaf and the blind, the joint legislative budget committee,
7 the governor's council on developmental disabilities, the department of
8 education, the department of health services and the department of economic
9 security.

10 F. The committee shall submit a report of its findings and
11 recommendations to the governor, the speaker of the house of representatives
12 and the president of the senate on or before December 1, 2000 and shall
13 provide a copy of this report to the secretary of state and the director of
14 the department of library, archives and public records.

15 Sec. 3. Delayed repeal

16 Section 2 of this act is repealed from and after December 31, 2000.

APPROVED BY THE GOVERNOR APRIL 26, 1999

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 1999

Joint Legislative Committee on Special Education and Regulations

PURPOSE: To make recommendations for possible modifications to the current special education finance formulas and systems based on a consideration of the following: 1) the federal requirements for a placement neutral funding system; 2) the appropriateness of assigning pupils to categories for funding purposes; 3) the complexity of the current special education funding formulas and systems; 4) the potential problems presented in a weighted system when the base level is not increased to adjust for inflation; 5) the impact of funding systems on the provision of necessary services in the least restrictive environment and the ability to make efficient and effective use of available funding; 6) the consideration of special education funding systems within the context of overall school funding; 7) the draft findings or the final report from the office of special education programs review of special education programs in this state; and 8) any other relevant or appropriate considerations. The Committee shall also examine the potential impact of the new federal Individuals with Disabilities Education Act regulations, including any regulations associated suspension or expulsion of children with disabilities, and examine and report recommendations regarding the formation of a group B special education risk management pool.

MEMBERSHIP:

House Three members of the House of Representatives, not more than two from the same political party and one designated as Co-Chair, appointed by the Speaker of the House of Representatives:
Gray, Knaperek (Co-Chair), Norris

Senate Three members of the Senate, not more than two from the same political party and one designated as Co-Chair, appointed by the President of the Senate:
Aguirre, Bennett, Huppenthal (Co-Chair)

Other One parent of a child enrolled in a regular education program in this state, appointed by the Speaker of the House of Representatives:
Ms. Delia Alston

One certificated teacher who has experience in special education, appointed by the Speaker of the House of Representatives:
Ms. Teri Graf, Mesa High School

One certificated teacher who has experience in regular education, appointed by the President of the Senate:
Ms. Marolyn Haws, Esperanza Elementary School

One member of the public with expertise in school district finance, appointed by the President of the Senate:
Mr. Michael Hunter, Arizona Tax Research Association

One administrator of a school or school district who has experience in both regular and special education, appointed by the Speaker of the House of Representatives:
Ms. Linda Irvin, Casa Grande Elementary School

One member who has one or more disabilities, appointed by the Speaker of the House of Representatives:

Ms. Danielle Jones

One member who provides residential special education services, appointed by the President of the Senate:

Mr. Steve Kaipers, Arizona Baptist Services

One member employed in the Exceptional Student Services Division of the Department of Education, appointed by the Superintendent of Public Instruction:

Mr. Steve Mishlove, Manager of Administrative Services, Exceptional Students Services, DOE

One parent of a child enrolled in a special education program in this state, appointed by the President of the Senate:

Mrs. Mimi Rogers

STAFF: S-Kimberly Yee, H-Brian Lockery
REPORT DATE: 12/01/2000
EXPIRATION DATE: 12/31/2000
STATUTORY CITE: Laws 1999, Chapter 67

Appendix B:
Committee Agenda

ARIZONA STATE LEGISLATURE

INTERIM MEETING NOTICE OPEN TO THE PUBLIC

JOINT LEGISLATIVE COMMITTEE ON SPECIAL EDUCATION AND REGULATIONS

Date: Tuesday, October 26, 1999
Time: 10 a.m. to 12 p.m.
Place: Senate Majority Caucus Room

AGENDA

1. Call to Order and Introduction of Committee Members
2. Presentation on the Statutory Charge of the Committee
Legislative Staff
3. Presentation: *Special Education Placement and Funding Requirements*
Steve Mishlove, Education Program Manager of Administrative
Services, Exceptional Student Services Division, Arizona
Department of Education
4. Discussion
5. Concluding Remarks
6. Public Testimony

Members:

Senator Huppenthal, Cochair
Senator Aguirre
Senator Bennett
Ms. Delia Alston
Ms. Teri Graf
Ms. Marolyn Haws
Mr. Michael Hunter
Ms. Linda Irvin

Representative Knaperek, Cochair
Representative Gray
Representative Norris
Ms. Danielle Jones
Mr. Steve Kaipers
Mr. Steve Mishlove
Mrs. Mimi Rogers

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting the Senate Secretary's Office: (602)542-4231 (voice). Requests should be made as early as possible to allow time to arrange the accommodation.
ky/mm 10/19/99

ARIZONA HOUSE OF REPRESENTATIVES

Interim Meeting Notice

Open to the Public

Joint Legislative Committee on Special Education and Regulations

DATE: Monday, August 21, 2000

TIME: 1:00 PM

PLACE: House Hearing Room 3

AGENDA

- I. Call to Order and Introduction
- II. Presentation by Steve Mishlove, Manager of Administrative Services Exceptional Students Services, Department of Education
- III. Presentation by Michael Hunter, Arizona Tax Research Association
- IV. Presentation by Craig Carter, Washington School District
- V. Presentation by Amy Hyman, Governor's Council on Developmental Disabilities
- VI. Presentation by Kathleen Stillwell, Arizona School Health Insurance Program (ASHIP)
- VII. Discussion
- VIII. Public Testimony
- IX. Recommendations
- X. Adjourn

MEMBERS:

Senator Huppenthal, Cochairman
Senator Aguirre
Senator Bennett
Ms. Delia Alston
Ms. Teri Graf
Ms. Marolyn Haws
Mr. Michael Hunter
Ms. Linda Irvin
Ms. Danielle Jones
Mr. Steve Kaipers
Mr. Steve Mishlove
Mrs. Mimi Rogers

Representative Knaperek, Cochairman
Representative Gray
Representative Norris

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People with disabilities may request reasonable accommodations such as interpreters, alternative formats, or assistance with physical accessibility. If you require accommodations, please contact the Chief Clerk's Office at (602) 542-3032, (TDD) 542 6241

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ARIZONA STATE LEGISLATURE

Joint Interim Meeting Notice

Open to the Public

Joint Legislative Committee on Special Education and Regulations

DATE: Thursday, October 26, 2000

TIME: 1:00 PM

PLACE: House Hearing Room 4

AGENDA

- I. Call to Order
- II. Progress Report by Michael Hunter, Arizona Tax Research Association and House Staff
 - A. Medicaid Reimbursement
 - B. Voucher Options
 - C. Other
- III. Discussion
- IV. Public Testimony
- V. Discussion of future meeting date
- VI. Adjourn

MEMBERS:

Senator Huppenthal, Cochairman
Senator Aguirre
Senator Bennett
Ms. Delia Alston
Ms. Marolyn Haws
Ms. Linda Irvin
Mr. Steve Kaipers
Mrs. Mimi Rogers

Representative Knaperek, Cochairman
Representative Gray
Representative Norris
Ms. Teri Graf
Mr. Michael Hunter
Ms. Danielle Jones
Mr. Steve Mishlove

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ARIZONA HOUSE OF REPRESENTATIVES

Interim Meeting Notice

Open to the Public

Joint Legislative Study Committee on Special Education and Regulations

DATE: Monday, November 20, 2000

TIME: 12:30 p.m.

PLACE: House Hearing Room 3

AGENDA

- I. Call to order
- II. Opening remarks
- III. Discussion
- IV. Consideration of recommendations
- V. Discussion of recommendations
- VI. Public testimony
- VII. Adjourn

MEMBERS:

Senator Huppenthal, Cochairman
Senator Aguirre
Senator Bennett
Ms. Delia Alston
Ms. Arolyn Haws
Ms. Linda Irvin
Mr. Steve Kaipers
Mrs. Mimi Rogers

Representative Knaperek, Cochairman
Representative Gray
Representative Norris
Ms. Teri Graf
Mr. Michael Hunter
Ms. Danielle Jones
Mr. Steve Mishlove

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accommodations, please contact the Chief Clerk's Office at (602) 542-3032,
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Appendix C:
Committee Minutes

ARIZONA STATE LEGISLATURE
Forty-fourth Legislature – First Regular Session

**JOINT LEGISLATIVE COMMITTEE ON
SPECIAL EDUCATION AND REGULATIONS**

Minutes of Meeting
Tuesday, October 26, 1999
Senate Majority Caucus Room – 10:00 a.m.

(Tape 1, Side A)

The meeting was called to order at 10:08 a.m. by Cochairman Huppenthal and attendance was noted by the secretary.

Members Present

Teri Graf	Representative Gray
Marolyn Haws	Steve Mishlove
Michael Hunter	Representative Norris
Linda Irvin	Mimi Rogers
Steve Kuipers	Representative Knaperek, Cochairman
Senator Huppenthal, Cochairman	

Members Absent

Senator Aguirre	Delia Alston
Senator Bennett	Danielle Jones

Speakers Present

Kimberly Yee, Legislative Research Analyst, Senate Committee on Education
Steve Mishlove, Education Program Manager of Administrative Services, Exceptional Student
Services Division, Arizona Department of Education (ADE)
Margaret White, Consultant
Steve Schimpp, Fiscal Analyst, Joint Legislative Budget Committee (JLBC)
David Demland, representing himself
Craig Carter, Special Education Administrator, Washington School District
Sheila Breen, Director, Exceptional Student Programs, Phoenix Union High School District
(PUHSD)
Susan Madison, Executive Director, Governor's Council on Developmental Disabilities
Jay Kaprosy, Legislative Relations Liaison, Arizona Department of Education (ADE)

The Members introduced themselves.

Presentation on the Statutory Charge of the Committee

Kimberly Yee, Legislative Research Analyst, Senate Committee on Education, reviewed the statutory charge of the Committee (Attachments 1 and 2).

Presentation: Special Education Placement and Funding Requirements

Steve Mishlove, Education Program Manager of Administrative Services, Exceptional Student Services Division, Arizona Department of Education (ADE), provided a copy of the Individuals With Disabilities Education Act (IDEA) 97 (Attachments 3 and 4, filed with original minutes in Chief Clerk's Office). He reviewed a handout outlining specific steps school districts and charter schools must follow in identifying and placing children in special education programs (Attachment 5). During the review, he provided the following information:

- Some preschool disability categories contain criteria in the regulations, but generally, specific eligibility criteria are left up to the local education agency to determine. There are certain components in State regulations that must be included in evaluations based upon the suspected disability, but federal law and regulations are relied upon to establish the foundation on which evaluations are conducted.
- A multi-disciplinary evaluation team, which exists within each school district and charter school, determines every assessment, and testing varies widely with each individual child. Developmental delay or similar terminology only applies to preschool age children. Specific criteria are established for evaluation of individuals classified as moderately or severely delayed. School districts can begin serving preschool children at the age of 2.9.
- For the re-evaluation process, a school district or charter school previously had to conduct a new assessment at the end of three years using the same criteria utilized for the initial evaluation. The new law gives school districts the ability to conduct a review with existing evaluation data, and if the team believes sufficient data is available without conducting further assessments, a determination of eligibility can be made based on that data. Reevaluation occurs every three years, or more frequently, if warranted.
- A problem sometimes occurs if a child, particularly those categorized as learning disabled, moves from one school district to another since school districts can establish their own eligibility criteria and may differ.

He concluded by stating that the special education process is very static in that the steps must be followed in the sequence outlined in the handout to insure procedural compliance with the IDEA.

Mr. Mishlove related to Cochairman Huppenthal that a concern about placement neutral funding is that decisions by an Individualized Education Plan (IEP) team are not made based upon an incentive to acquire a higher level of funding.

Mr. Hunter said two sets of laws that affect special education requirements are the IDEA and a more ambiguous federal mandate, Section 504. IDEA contains very specific requirements and placement, but students who are recognized by parents, teachers, and others to have special needs and do not fit into IDEA fall under Section 504, which requires that school districts

provide special attention to the child. B weights may or may not be associated, but some ergonomic correction or other method to address the child's special needs is necessary.

Mr. Hunter stated that California was not using B weights like Arizona, but a resource-based program where facilities within school districts were funded, perhaps not fully, for the number of employees by category, such as speech therapists, occupational therapists, etc., i.e., those salaries were funded through the resource-based criteria. He said he recently read literature about a census-based approach where every school district receives a certain amount of money based on student population, and California was the first state to implement the system. An advantage is greater flexibility, but a disadvantage is the complaint that some school districts have a disproportionate share of special education children, which leads to hold harmless issues. There is a raging debate in special education literature about which systems are appropriate. He added that there are also grant funding systems. Arizona is one of 18 states with a pupil weighting-type system, but there is also a reimbursing percentage of actual cost, which is done in 11 other states. California was resource-based, and 11 states were using that method. Ten states were using a fixed dollar grant. He stated that he would be interested in finding out the rationale behind Arizona using the weighted funding system. He added that every state, including California, even after adopting the census-based program, is still debating what works best in terms of resource allocation and meeting the needs of the children.

Mr. Mishlove advised Mrs. Knaperek that placement neutral funding is a method of placement that does not provide an incentive to place a child in a specific category or location for the purpose of extra money. The requirement is included in IDEA.

Mrs. Knaperek related that she would like to know the negatives in the current system and if people believe changes are necessary. She asked for an explanation of Section 504.

Mr. Mishlove indicated that the definition of an individual review of a disability under Section 504 is much broader than under the IDEA. He said he will provide a resource guide on Section 504 to the Members. He clarified that if a child is deemed Section 504 eligible after evaluation with the same or different evaluation procedure, an accommodation plan must be developed. The plan entails a description of accommodations or modifications the child needs to participate and benefit within a regular classroom. No funding is attached and all children eligible for special education services under the IDEA are also Section 504 eligible.

Mr. Mishlove reviewed State and federal Special Education Funding (Attachment 6). He clarified that Group B add-ons are categories of disabilities that typically need a higher level of service (moderate to severe), and Group B weights have been increased over the past several years. Group A applies to all children; however, special education categories under Group A are students with mild disabilities, such as speech and language impairments or emotionally disabled, who do not require separate or private placements. He added that schools are eligible to apply for Certificates of Educational Convenience (CEC) as a result of children placed in different types of facilities, rehabilitation, group homes, etc., outside the district of the legal guardian's residence.

Mr. Mishlove indicated that he does not know the history behind application of the multipliers. Group A applies to all students, and what is done with money generated by the weight is up to the district. DEA does not know the extent money is used for special education students since it goes into the general Maintenance and Operation (M&O) budget.

Ms. Norris questioned the reason for less and less money for administration.

Mr. Mishlove replied that much more is needed. He assumed a good portion relates to salaries and speculated that a State-funded position was recently eliminated, which may account for the reduction.

Public Testimony

Margaret White, Consultant, explained that Arizona has a unique funding system that was developed after much planning. State Superintendent of Public Instruction, Lisa Graham-Keegan, held a "think tank" a few years ago with nationwide experts and many people in the room, who did an excellent job developing the system, which has been alluded to as one of the better structures.

(Tape 1, Side 2)

Ms. White stated that Group A refers to the number of regular education students. It is a census count that brings in a certain amount of money and is not really considered a weight. Group B is a categorical weight that covers students with evident disabilities (blind, severely hearing impaired or deaf, multiply handicapped, severely mentally retarded, etc.). She said her child is mildly mentally retarded and was in the Group A category. She received an excellent education and currently attends Mesa Community College, but she received about \$300 per year from the Mesa School District as part of the census. It does not play out that way, however, because the school district receives a lump sum of money in the census to serve all the children in Group A; therefore, a child like hers, in a self-contained class, would receive more of the Group A money. A child with no disability would not receive any of the money. The system is designed ingeniously so those children do not have to be labeled to be paid for, and numbers are documented at the local school level.

Ms. White said there is some confusion with the IDEA because the federal law is not totally clear. She noted that she read an article indicating that some states were deemed not federal revenue neutral with a census system; therefore, it is difficult to know exactly what constitutes revenue neutral. An education expert told her that on the face of the law Arizona's system is not out of compliance, but in practice, it may be on occasion. Some people believe that when all categories are thrown in, labeling students is not in the best interest of the student. She added that the Committee needs to pool information and determine what is best for special education students in Arizona.

She commented that ADE and Exceptional Student Services have very little authority to actually monitor what is going on except that the local school district must provide a plan for approval to ADE in order to obtain funding. Compliance with the federal law is necessary or there may be

lawsuits. She pointed out that a current lawsuit sponsored by the Center for Disability Law is aimed toward more effective monitoring by ADE and Exceptional Student Services.

Mrs. Knaperek indicated that some people believe students are placed in Group B unnecessarily.

Ms. White responded that in ten years working in the area of special education and 30 years as a parent, that absolutely is not happening. It is always difficult to obtain services children need, and no parent would allow a child to be labeled unless it was for the child's good. Placement in Group B must be documented, and there is a rigorous process to prove that a child needs the service. The multi-disciplinary team within the school district of professionals reviews the documents. She added that the team is "under the gun" from the superintendent, etc., not to spend money, if possible, because for more than a decade Group B weights have been grossly underfunded. Thanks to the Legislature, those weights are now fully funded with \$44.9 million in the last four years.

Mr. Mishlove advised that there are about 90,000 special education students in Arizona.

Ms. White speculated that the number of special education students is increasing due to pollution, breakdown of the family, environmental factors, and advances made in medical science. She added that a slight increase in federal funding was realized in the last two sessions of Congress, and there are the new Group B weights.

Steve Schimpp, Fiscal Analyst, Joint Legislative Budget Committee (JLBC), indicated that the Group B growth rate is about five percent annually in contrast to the overall student growth rate of roughly three percent annually.

Ms. Norris indicated that with Group A some school districts may have more high-end users of special education and may not receive the money that is needed proportionally.

Ms. White submitted that the census amount, Group A, is probably underfunded. Now that the Legislature fully funded Group B weights, and increasing the base for all students in Group A helped, there is opportunity to review Group A weights, which can be done by the Committee.

Mr. Hunter remarked that a criticism he read about census-based funding is that it de-emphasizes special education because there is no labeling. With Arizona's dual system, a complaint of school district administrators is that because of the special education requirement, when the budget is designed, funds are constantly taken from regular education for special education.

Ms. White answered that with a combination census and categorical system, depending on how labels are dealt with, the issue of de-emphasizing special education is avoided because census funding is obtained whether students need it or not. With the categorical portion, when Group B is fully funded, as it is now, it is not necessary to pull from regular education to fund special education.

Mrs. Knaperek related that the idea of setting up a risk pool of money for high-end users of special education was discussed in the past so costs for those students can be met.

Mr. Hunter pointed out that there appears to be a shortage of personnel, such as counselors and occupational therapists, especially in the smaller school districts. Mrs. Knaperek said there may be a few items the Committee can do to help. Ms. Irvin suggested that the Committee review not only categories, but also service delivery and levels of service.

Mr. Mishlove brought up the fact that a recommendation was made to ADE that the focus of a cost study should be Group A, which is recognized as a significant need. The study would need to include other areas where Group A funding is used, such as bilingual, gifted, etc. He added that he trusts the schools and does not believe any evaluation team consciously makes a decision to label a child inappropriately.

Mr. Mishlove noted that with new federal laws, a representative of one school district is a recipient of change relating to funding of preschoolers with federal dollars. The federal government is going from a head count reimbursement process to establishing a base level of funding, in which the level of funding is determined based upon the population (85 percent) and poverty (15 percent) in the district. In one particular district, a unified district has the same population of preschool eligible children as an elementary district. The population of the unified district is much greater; however, the elementary district only receives an amount of money based upon the number of elementary children, so there are some problems, which ADE is attempting to address.

He clarified that the lawsuit mentioned by Ms. White is not related to monitoring, but to ADE's complaint investigation procedure. The predominant issue is a lack of sanctions ADE has available to enforce corrective action.

Ms. Graf asked why Specific Learning Disabilities (SLD) students are placed in Group A when students range from needing one to multiple areas addressed.

Mr. Mishlove responded that between 50 and 55 percent of the total special education population is learning disabled. He acknowledged that there is great variance in the level of severity from mildly disabled to severely learning disabled children needing very intensive services. He speculated that it probably relates to the issue discussed earlier that Group A funds are intended to address additional costs associated with special education Group A students.

Mrs. Knaperek asked if he would suggest that some SLD children be placed in Group B and others in Group A.

Mr. Mishlove submitted that placement in Group B would be appropriate if a higher level of funding is provided to meet the needs of the student.

Mrs. Knaperek asked if needs were correlated with cost in the Special Education Cost Study produced by ADE in 1997.

Mr. Mishlove said he does not believe Group A categories were reviewed in the cost study, except in relation to preschool categories. That is a different issue because there are no equivalent programs in public schools for preschools.

David Demland, representing himself, testified that when his son, Clark, neared school age, he and his wife decided to make sure he has the best possible education. When he was in preschool, the teachers said he has a slight speech problem, so he and his wife contacted the Creighton School District for an evaluation. The speech therapist determined that Clark is very bright and people sometimes have to concentrate to understand him, but he did not qualify for speech education. He took Clark to Arizona State University (ASU) to be evaluated by a speech therapist, which he paid for, and when that report was provided to the Creighton School District, Clark began receiving speech education within three weeks.

Mr. Demland said as Clark was about to enter grade school, he and his wife had to decide where to send him, again, with a high priority of obtaining the best education possible. He pointed out that a handout shows that Creighton School District test scores are considerably lower than Phoenix Christian School, where they decided to send him (Attachment 7). Just before his son began grade school, he and his wife were informed that he has muscular dystrophy. They told school personnel they wanted Clark to have a normal life and interact with normal children, and he is now in a classroom with second grade children he has known since Kindergarten, although he is permanently in a wheelchair. However, he is falling behind, so he and his wife went to the Creighton School District and asked for help. Last Thursday in a meeting with the School District, they were told that Clark will be evaluated and probably will be eligible for some services, but most likely, will not be able to receive the services. He endorsed the concept of a voucher allowing parents with special education students to take funding allotted from the local school district to another school to provide for special education needs. He contended that this is not an issue of private versus public schools, but an issue of freedom of choice.

He clarified that the Creighton School District is currently evaluating Clark, but he probably will not receive any services if he qualifies because he attends a private school outside the district. Three children were identified in the District with special education needs, including Clark. The District allows \$1,800 for those students, which is \$600 each per year; however, very little can be done with \$600. He indicated that the District refuses to inform him of the amount received for other children in the District, but he believes it is close to \$1,800 or more.

Mr. Mishlove advised that IDEA requires local education agencies to provide a proportionate amount of federal funding for students voluntarily placed in private schools. The number of private school eligible students is multiplied by the federal funds provided and divided by the total number of eligible IDEA students in the school district. That calculation provides the proportionate amount of money the school district is obligated to provide. He said he does not believe any State dollars are given to children voluntarily placed in private schools. He speculated that if Clark attended the Creighton School District, he would be placed in the Group B category.

Mr. Schimpp advised that the Group B special education weight for orthopedic impairment-resource is 1.744; for orthopedic impairment-self-contained, it is 5.641.

Craig Carter, Special Education Administrator, Washington School District, said there is a misperception by parents, partly perpetuated by the existing funding formula, that the IEP is motivated by revenue sources. He stated that the current state funding mechanism generates revenue for the district to allocate based on needs, and those needs typically exceed the current revenue mechanism within special education and other areas, such as gifted, etc. Therefore, in order to be in compliance with IDEA, the District must dip into general M&O to sustain special education services. He noted that there is also a theory that because some of the children do not look disabled, they are misclassified. He contended that school districts are not making money off of the current funding mechanism. He made the following suggestions:

Implementing some controls, or caps, under the IDEA in terms of federal dollars within categories.

- The State funding formula is broken into categories of resource and self-contained, but there could probably be a blended category-driven mechanism based on intensity of service.
- Because it is about 2.4 times as expensive to educate a special education child compared to other education students, one way to address the inequity might be to free up some expenditures to support special education children and review current weight levels for other Group B students that do not have an additional weight assigned.

Mr. Carter commented that the 50 percent increase and figures for the add-on of roughly \$91 million compared to two years ago is the result of the Legislature reviewing the excess cost study and funding the excess cost for students with significant disabilities.

Mrs. Gray noted that a flier in support of the Washington School District override stated that only 15 percent of the District's special education excess costs are funded by the State. She asked what constitutes excess costs and why only 15 percent are funded.

Mr. Carter responded that it relates to the fact that the District has about 3,300 children under an IEP. About 15 percent have significant disabilities, such as blindness, hearing impairments, varying degrees of mental retardation, multiple disabilities, etc.; therefore, about 15 percent of the IDEA population represent that group and the funding mechanism. Due to legislative changes over the last two years, those additional weights come fairly close to providing the actual cost to implement IEPs. The other 85 percent are students who are health impaired with speech problems, etc., and generate no additional revenue to sustain IDEA requirements.

Mrs. Knaperek noted for the record that the Legislature increased special education Group B weights for the last four years in the amount of \$44.9 million.

Mr. Carter acknowledged that it is a significant increase, but when talking about add-ons as fully funded in Group B, he does not believe that is an accurate statement.

Mrs. Knaperek responded that not all of Group B was considered. There are issues with some of the group, such as whether or not the children really need those services.

Mr. Carter said that speaks to the integrity of the eligibility process, noting that it is important to have controls in identifying students. He agreed to present ideas to the Committee at a future meeting.

(Tape 2, Side A)

Sheila Breen, Director, Exceptional Student Programs, Phoenix Union High School District (PUHSD), pointed out that eligibility is determined by answering two questions:

- Does the child meet the definition listed in law, either state or federal?
- If the child has a disability, does the child require special education services in order to receive an appropriate education?

She noted that not all students with disabilities qualify because special education is not necessary, e.g., some accommodation may be needed, but if special education instruction is not required, eligibility is not a factor. She related that Section 504 is a non-discrimination law, not an affirmative action law. While it is important to identify students who may be discriminated against on the basis of disability, the intent is not to alleviate the problem, but eliminate factors that interfere with the child's ability to be treated like every other child. That is why the laws are different and the eligibility criteria of schools are very different.

She urged the Committee to consider a way to fund service delivery, i.e., what it actually costs to implement a student's IEP. The fundamental formula of Groups A and B will work, but some additional tweaking is needed in terms of separating out additional services for which no funding is received. She agreed to provide a placement neutral cost for an IEP to the Members before the next meeting.

Susan Madison, Executive Director, Governor's Council on Developmental Disabilities, urged the Committee to follow Ms. Breen's recommendation. She said her understanding of the 1997 amendments to the IDEA indicate that policy and procedures must be developed to revise the State's funding mechanism, which can no longer be based on the type of setting or disability, but on placement neutral. She noted that some states are currently allocating funds using a percentage reimbursement of actual expenses or allowable costs. She made the following recommendations:

- Address funding for special education based on placement neutrality.
- Realign funding mechanisms to maintain the safeguarding of students' rights.
Encourage inclusive classrooms, lunch, and recess with non-disabled peers, which is very important for socialization and integration.
Define levels of service for special education by the percentage of time the students receive specialized instruction and related services.

In conclusion, she stated that she believes Groups A and B should be replaced with weights for levels of service regardless of the disabling condition. Funding for levels of services, i.e., reimbursement for costs, will eliminate the need for funding based on resource setting. The State would then be in compliance with IDEA and students' service needs would be met. She clarified that she does not believe the State has all the policies and procedures in place to guarantee placement neutral.

Jay Kaprosy, Legislative Relations Liaison, Arizona Department of Education (ADE), advised that ADE is currently monitored by the Office of Special Education Programs (OSEP).

Mr. Mishlove added that ADE was monitored by OSEP about a year ago and is waiting for the final report, which could be received at any time.

Mr. Kaprosy added that ADE is waiting to see if OSEP finds fault with the current funding system. There is some ambiguity about whether the State is in compliance and if a very large change or just a tweaking of the current system is necessary.

Mr. Hunter surmised that Ms. Madison is advocating for a reimbursement-type system, which is currently utilized in 11 states. He asked if one state could be used as a model.

Ms. Madison replied that she has no specific state in mind, but applauds looking at best practices, not just compliance. In reviewing what other states have done, sometimes a history of what worked well and what did not work so well is available.

Mr. Kaprosy volunteered to contact some individuals who can help.

Discussion

Mrs. Gray questioned if funding from Kids Care or tobacco funds may be available.

Cochairman Huppenthal indicated that he would like to review quality data and hear how parents rate the quality of services received.

Mrs. Knaperek raised four specific issues that need to be addressed and assignments were given to the Members:

- Systems review (best practices from other states).
How to finance the system chosen.
- Portability (issue of children moving from district to district, evaluation, and voucher issue).
Evaluation.

Cochairman Huppenthal indicated that Staff will coordinate with everybody about the next meeting.

Ms. Graf stated that the impact of the new IDEA law made many significant changes within the education of these children and asked the Members to keep that in mind when reviewing funding and revenues.

Mrs. Knaperek commented that a bullet-point sheet of changes of the IDEA is needed.

Without objection, the meeting adjourned at 12:25 p.m.


Linda Taylor, Committee Secretary

(Original minutes, attachments, and tapes are on file in the Office of the Chief Clerk. A copy of minutes and attachments are filed with the Senate Secretary.)

ARIZONA STATE LEGISLATURE

JOINT LEGISLATIVE COMMITTEE ON SPECIAL EDUCATION AND REGULATIONS

**Minutes of the Meeting
Monday, August 21, 2000
1:00 p.m., House Hearing Room 3**

Members Present:

Senator Huppenthal, Cochair
Senator Aguirre
Delia Alston
Michael Hunter
Steve Mishlove

Representative Knaperek, Cochair
Representative Gray
Teri Graf
Linda Irvin

Members Absent:

Senator Bennett
Marolyn Haws
Steve Kaipers

Representative Norris
Danielle Jones
Mimi Rogers

Staff:

Kimberly Yee, Senate Education Committee Research Analyst
Brian Lockery, House of Representative Education Committee Research Analyst

Representative Knaperek called the meeting to order at 1:10 p.m., introduction of the Committee was made, and attendance was noted.

Attendees Sign-In Sheet (Attachment 1)

Mr. Brian Lockery, House of Representative Education Research Analyst, explained that the October 26, 1999 meeting uncovered four specific issues to be addressed during the interim: 1) systems review, including best practices from other states, 2) how to finance the chosen system, 3) portability issues, such as children moving from district to district, evaluation, and vouchers, and 4) overall evaluation. As established in Laws 1999, Chapter 67, the Joint Legislative Committee on Special Education and Regulations is charged with making recommendations for possible modifications to the current special education finance formulas and systems based on the consideration of the following: 1) the federal requirements for a placement neutral funding system; 2) the appropriateness of assigning pupils to categories for funding purposes; 3) the complexity of the current special education funding formulas and systems; 4) the potential problems presented in a weighted system when the base level is not increased to adjust for inflation; 5) the impact of funding systems on the provision of necessary services in the least restrictive environment and the ability to make efficient and effective use of available funding; 6) the consideration of special education funding systems within the context of overall school funding; 7) the draft findings or the final report from the office of special education programs review of special education programs in this State; and 8) any other relevant or appropriate considerations.

Mr. Lockery further explained that the Committee is also charged with examining the potential impact of the new federal Individuals with Disabilities Education Act (IDEA)

regulations including any regulations associated with suspension or expulsion of children with disabilities and reporting recommendations regarding the formation of a Group B special education risk management pool.

PRESENTATIONS

Mr. Steve Mishlove, Administrative Services Director, Exceptional Student Services, Arizona Department of Education (ADE), indicated that his department has the general supervisory responsibility to ensure federal and state requirements are carried out, primarily ensuring that all students with disabilities receive a free, appropriate public education in the least restrictive environment. ADE is required to assure that the rights of children with disabilities and their parents are protected. He distributed an updated Special Education Process flowchart (Attachment 2), as well as charts indicating the special education census information (Attachment 3). Considering that Arizona is one of the fastest growing states in the country, along with the number of local public education agencies increasing from about 225 school districts in 1995 to approximately 520 plus currently, it is not surprising that the population of special education students has increased by 3% to 5% in the last five years. As of December 1999, there are 93,335 special education students in the system.

Mr. Mishlove explained that ADE has received the Federal Monitoring Report and placement neutral funding was an issue addressed in that report. He suggested that he would be meeting with representatives from the federal office of Special Education Programs in mid-September to develop a State improvement plan based upon the funding in the monitoring report. Placement neutral funding remains to be an issue at the federal level relative to the special education funding system.

Mr. Mishlove distributed a memo summarizing the major issues of the new H.B. 2359 (Attachment 4) and pointed out some of the key items. He indicated that there also are some new State rules that have yet to be certified by the Attorney General's Office (AG). He emphasized that one major milestone that they are very close to achieving is an intergovernmental agreement IGA with Arizona Health Care Cost Containment System (AHCCCS) which will allow for the reimbursement of Medicaid funds for direct services. Those services initially will be limited to special, occupational, and physical therapy. Within the IGA there is language which directs AHCCCS and ADE to meet and discuss the inclusion of additional services.

Mr. Mishlove also distributed a memo regarding the Charter School Expansion Act (Attachment 5). This Act requires ADE to provide current-year federal funding to new charter schools and charter schools with a significant expansion in enrollment. He suggested that this will have an impact on the allocation of the federal funds. Within the IDEA amendment of 1997, a new funding formula has been started for the K-12 population which was previously initiated for preschool children. Part of the allocation is based upon the December 1, 1996 preschool child count and part is based on the December 1, 1998 K-12 child count. The child count provides a base payment to local education agencies (LEAs). Another allocation will be based upon population and poverty indicators, which is generally good for Arizona because the population is growing. However, there are some districts that have declining enrollments which may be impacted adversely.

Senator Huppenthal quoted the special education student population number as 93,335 and indicated with a base of 750,000 students that represents approximately 12% of the students. He suggested that the number appears to be a little high and questioned if there

is an audit system to ensure that the students are correctly classified. How frequently are the audits conducted and are those reports available? Mr. Mishlove replied that the latest figures on total school population is approximately 815,000 which lowers the special education number to 10.7%. He explained that there is a very sophisticated monitoring system in place to examine compliance efforts at the schools. He emphasized that the monitoring is continuous and ongoing because of the many requirements to observe. The process includes reviewing applications for federal funds, complaints, requests for due process hearings, and mediation requests.

Senator Huppenthal indicated that as mentioned there are a large range of issues to review, and he is concerned and wants to ensure that the students are properly classified. He questioned if a random sampling is accomplished through ADE's audit. Mr. Mishlove replied that within the monitoring, a random sampling of students' files are reviewed, checking every federal and state requirement. He suggested that very few misclassifications are found during audits. Senator Huppenthal wondered if the 10.7% figure was a solid number. Mr. Mishlove answered absolutely.

Representative Knaperek asked when comparing Arizona to other states, is the 10.7% high or low. Mr. Mishlove indicated that he was not sure but felt that Arizona's percentage was average to the other states.

Mr. Michael Ward, Director of Governor's Council on Developmental Disabilities, stated that the national average is 11%.

Representative Knaperek asked about the Medicaid in Public Schools Program and questioned if AHCCCS has approved reimbursement for physical and occupational therapy. Mr. Mishlove replied that the IGA should be signed any day. Representative Knaperek stated that she feels there is some type of a certification process and wondered if it is for the providers. Mr. Mishlove responded that the providers need to be certified by AHCCCS, as well as the schools and districts. Representative Knaperek commented that she did not want to spend much time on that subject at today's meeting, however, it is an issue that will need discussing in the near future because it sounds like the process will be very burdensome to the districts. Mr. Mishlove said that it is his understanding that there is a sufficient amount of paperwork required to access those funds. He indicated that AHCCCS is in the process of conducting training sessions and the information will be disseminated to the LEAs.

Representative Knaperek said that it is also her understanding that reimbursement will only be made to the child that is long-term care eligible. Mr. Mishlove replied that he did not believe so. Representative Knaperek suggested that if a school has a physical therapist who is giving services to not only a child who is long-term care eligible but to other children as well, they will receive the same reimbursement rate for each child. Mr. Mishlove said that he does not feel there is going to be a distinction made.

Mr. Mishlove concluded with distributing a Special Education Funding report (Attachment 6), showing the state, federal, and miscellaneous fund distribution.

Mr. Michael Hunter, Arizona Tax Research Association, explained that he would provide information on special education finance systems from other states. He stated that there is a valuable resource on the Internet, which is the Center for Special Education Finance (CSEF) and their website is csef.air.org. On this website are a number of studies, including

California's which is similar to Arizona's. He distributed the State Special Education Funding Formulas summary (Attachment 7).

Mr. Hunter next discussed the types of state funding formulas, referring to page 5 of the summary mentioning the "Pupil Weights," which is the system most often used by states, including Arizona. Some states use a Flat Grant system as indicated on page 7, a Resource-Based System as described on page 8, or the Percent Reimbursement system, identified on page 9. Page 10 details each state and the system used for funding, and page 14 specifies the criteria for evaluating special education funding formulas. He indicated that the most important criteria to consider are whether the system is equitable and adequate. Page 16 provides explanations of the criticisms of the systems, as well as the strengths and weaknesses of each.

Mr. Hunter stressed that very few people can argue that the Arizona system is inequitable, because the way it works does provide a great deal of equity. The State has a combined system of Group A and Group B, not just one weight based on disabling conditions. He explained that the Group A weight system was designed with the purpose of avoiding overcategorization or overlabeling of students. Group B weight includes individuals with disabilities such as, hearing impaired, visually impaired, and autism. These categories are easy to recognize and difficult to imitate.

Mr. Hunter indicated that when touring the special education facilities and schools, administrators were not concerned about how the money was distributed, because the benefits of the weight system made sense to them. The question was adequacy of funding, rather than equity. He emphasized that Arizona's finance system has its merits, but the issue that the Committee should be addressing is the adequacy of funding.

Representative Knaperek suggested that Arizona has a type of quasi group weight system, because there is the Group A and B. She questioned if Group A is similar to the Flat Grant System and Group B to the Pupil Weights, providing a combination of systems. Mr. Hunter responded that is correct. If the Group B weights were excluded, the Group A weights would be described as a Flat Grant or Census-Based System. Nationwide the incidences that are described in Arizona as Group B weights are relatively low. When California was looking at the appropriateness of its Census-Based System, the assumption was that there would be an equal distribution of special education cases and costs. However, it did not turn out that way because Special Education cases are not distributed equally across geographic areas of any state. The weighted system that was adopted in California was called a Severity Service Multiplier where the variation in costs for the same category is extremely wide.

Senator Huppenthal indicated that he understands that Arizona has no incentives for misclassification. Some school districts have developed a reputation for better quality of service to special education students, and as a result, they tend to attract a higher percentage of special education children. Given the restraints in the budgeting process, it seems the general policy that should come from this Committee is more pressure to increase the special education dollars.

Mr. Hunter said that he was remiss in not mentioning that when looking at the lack of

random distribution of special education costs and incidences of severity, one of the things found is that certain schools gain reputations for being able to handle these cases. Moon Mountain Elementary School of the Washington District is an example of a school with a reputation for being state of the art in providing real world teaching experiences for these students that many parents of special needs children seek out.

Representative Knaperek indicated that another phenomena is the placement of group homes with developmentally disabled individuals in some school districts at a higher rate than in others. She said that one of the districts she represents is Tempe Elementary which has a very high percentage of group homes and the schools must provide services to these children. She indicated that these are two different reasons why the numbers can be higher in one district over another.

Mr. Hunter stated that California uses a term called SELPA which stands for Special Education Local Planning Area. This term describes several small districts that form to make decisions on special education resources and planning. This type of area may be a consideration for charter schools, as well as small and rural schools where the complaint is that resources are not available because of the economies of scale and other issues. Representative Knaperek asked if there is anything in the statutes that preclude the State from doing that now. Mr. Hunter replied that he did not know of anything.

Mr. Mishlove responded that he feels that SELPA may be equated to intermediate school districts, consolidating small school districts under one umbrella for the purpose of delivery of services. There are some areas in Arizona such as the Yavapai Superintendent's office where they serve the small rural districts in Yavapai County.

Mr. Hunter said that there will be a change in the IDEA '97 in terms of federal distribution of monies for special education. For a few years, it has been on a census-based formula and it is about to change to also include adjustments based on location of high poverty areas. He suggested that process will pose some interesting questions because the research conducted by CSEF has shown very little or no correlation in special education cases because of poverty. The federal assumption is that in higher poverty areas, there will be more cases of special education children, or there will be less ability to fund those special education needs because of low property value. However, in Arizona, that is not the case because areas with low property values are not penalized.

Senator Huppenthal explained that he has been involved with a group of parents of autistic children. One of the things that impressed him is that the diagnosis at birth for these children was that they would never walk or talk, yet all of them were walking and talking. The parents had formed a group and did an incredible amount of research on best practices in raising autistic children. The thing that struck him about this situation was that if these children reached adulthood without this "Herculean" effort, every single one of them would go on Social Security disability and become a lifelong dependent on taxpayers. With these types of spectacular results, the savings are enormous. Researchers have discussed a system for autistic children in which there is "no difference." The ideal goal is for the parents to raise their autistic children in a way that no difference can be noted between an autistic child and a normal child, but it takes an extraordinary effort to keep these children

progressing. Returning to the issue, how can this be integrated into the cost study, because it is a real cost and benefit to the school district. Senator Huppenthal also suggested that in the cost study, there should be some effort to indicate that it is not just cost, but a value issue where spectacular gains are made in getting these children off the lifelong dependency. Senator Huppenthal indicated that the two potential issues the Committee can work with are the cost study and quality of evaluation that could be a real change for the better in the special education program.

Representative Knaperek thanked Senator Huppenthal for bringing up that issue because what she has found in working with the human services agencies and providers, historically there are no outcome measurements to ensure a child has progressed. Currently, even when there appears to be some progression, there are no measurements to tell how much the child has progressed.

Representative Knaperek next discussed the President's Commission on Mental Retardation (PCMR). She stated that she is a member of the Arizona committee and one of their projects this year is called Children's Integrated Delivery System in Schools (CIDSS).

Ms. Keri Sparks, House of Representatives Research Analyst, explained that CIDSS was first established as a subcommittee of the PCMR. Committee members include representatives from the Department of Economic Security (DES), Division of Developmental Disabilities (DDD), Division of Behavioral Health Services (DBHS, ValueOptions, AHCCCS, Tempe School District, Kyrene School District, Tempe Union School District, and parents. The committee has reviewed a similar project from Missouri that developed a comprehensive system to integrate human services with education and health for special education children. Within the Missouri project, some systemic and family issues became concerns. The systemic issues were that the project was fragmented, duplicative, and conflicting. Some of the family issues were that the services were confusing to AHCCCS, difficult to manage, and often same core information was repeated. In this interagency planning and support model in Missouri, they designed an integrated plan, a comprehensive evaluation, and technology to develop a database. From this experience, some solutions for Arizona were proposed: 1) locate services for children in the schools, where caseworkers would assist in working with the children; 2) conduct joint training across the agencies, which is a major factor in identifying the needed outcomes for the child and family, and 3) ensure a shared vision and mission across the State agencies.

Ms. Sparks further explained that the Missouri Collaborative Support Plan is comprehensive and includes information necessary for improving the coordination of services to the families and children. The Arizona team members will pull resources, coordinate service delivery efforts, and share information through a website. The committee started meeting in January, 2000 and their goal was to have ten families in three school districts (thirty families) participate in the project. The original start date was scheduled for January, 2001 which has been moved to August, 2000. Eventually, they will recruit more families to communicate with teachers and superintendents to provide suggestions on how to help children with special needs.

Representative Knaperek explained that this project is concerned with the Group B student who is receiving services for more than one discipline. She said that she feels there is a

significant cost savings when coordination of care occurs. In Missouri, the cost is \$0.27 per child for the technology.

Dr. Craig Carter, Director of Special Education, Washington Elementary School District, distributed a handout (Attachment 8) and stated that his district was one of 14 that participated in the cost study and he wanted to share some feedback. He explained that in order to understand the cost study, he will provide a quick review of the State funding as it relates to special education. There is a support level base with add-on weights for Group A and Group B programs. In terms of the base support level, the money received is based on Average Daily Membership (ADM) count. There is a flat dollar amount that is determined by the Legislature. For the audit year 1998-1999, the base support level was approximately \$2,400. In respect to Group A, the funding mechanism is calculated on the total ADM count and the monies that are generated serve a select group of children that are in the special education programs.

Dr. Carter explained that the monies are distributed according to each district's unique budget process. He stated that the cost study did not account for inflation over a ten-year period. From 1991-1992 through 1998-1999, the cumulative inflationary index was about 15%. For example in 1991-1992, the Gross National Product (GNP) inflation index was a little over 4%, the State made an adjustment of 1%, leaving an unfunded compound loss of about 4%. Over time, there is a loss of revenue related to not adjusting for the inflationary index. For the 1998-1999 school year, the State will receive approximately \$2,500 per student although it should be approximately \$2,700 taking into account the inflationary index.

Dr. Carter shared that in 1991-1992, his school district lost close to \$45 million in revenue. For the 1998-1999 school year, they lost approximately \$6 million. Every district in the State is impacted by this. He said that he feels the cost study did not account for inflation and emphasized that this is a critical point. He stressed that the California school districts successfully sued the State recently for \$1.1 billion for not funding inflation for mandated programs going back to the early 1990s.

Representative Gray stated that since this is a federal mandate, she is surprised that the total liability was placed on the State and not the federal government. Dr. Carter suggested that is another discussion.

Dr. Carter said that there are two important terms to understand. One is the additional cost. The cost study does a very good job in describing the expenditures to provide services for children, beyond the cost of educating in the context of the regular classroom. The second concept is unfunded cost. It is taking known expenditures and linking them to a statutory funding weight to see if those expenses are covered. Obviously what is left over is an excess unfunded cost.

Senator Huppenthal suggested that there is no dispute about additional costs; however, the speaker is talking about unfunded cost. He explained that the problem he has in defining unfunded cost is that when reviewing the turnover rates in the education system, they are somewhat driven by the way the school districts do their salary schedules. Because there is

such a steep slope to the salary schedule, there is an incredibly large turnover at the lower end of the salary schedule and a small turnover at the upper end. Yet, when looking at the average turnover, which is what is controlled in the Legislature, it is far less than what it is in the private sector. Therefore, his analysis says that all things being equal, the unfunded cost appears to be zero. Of course, the school district officials always point to the lower end of the salary schedule, but the Legislature only controls the average point of the salary schedule. Senator Huppenthal stressed that it is the school districts that drive unfunded cost not the Legislature.

Dr. Carter indicated that hopefully during his presentation, he will shift the senator's perspective on the unfunded cost. The unfunded cost, because it is a labor-intensive industry, is typically absorbed by people cost and salaries. When replacing vacancies, especially due to teacher shortage and competitive market, whether a teacher is at the low, midpoint, or high of the salary range, it is a known cost. People need to be rewarded in terms of loyalty and value to the organization and people have the right to make a livable wage. Costs are going to increase annually perhaps magnifying the unfunded cost when determining what is a fair competitive salary. Dr. Carter provided an example of additional cost versus unfunded cost. The expense to educate a child in the district's resource program if the child is being served at his home school with all the related services with a full-time instructional assistant making \$7.50 an hour is about \$14,000 beyond the cost of educating a regular student. The unfunded cost would generate about \$5,000 leaving \$9,000 which needs to be debited to the general maintenance and operations (M&O) to cover the expense.

Dr. Carter indicated that the information he is sharing with the Committee has been through an internal and external peer review, as well as an outside audit where the concept was reviewed but the accuracy of the numbers was not verified. The cost study concludes that Group A provided approximately \$294 million and that the monies generated cover all of the expenses in that group. Statewide, Group A accounts for approximately 85% of the disabled population. In the Washington School District, they generated \$9.4 million in Group A funds. The problem with the conclusion that all categories are covered in the Group A is that it did not examine the expenditures with the other programs. In the gifted education, no analysis was made as to whether the expenditures were covered by the Group A funding source. This allows for a problem of accountability. Whatever model the Committee decides to chose, it needs to be linked to the disability groups in order to account for where the money is spent.

Senator Huppenthal asked for a summarization of the information. Dr. Carter stated that there are two points he wants to stress to the Committee. One is that the cost study did not account for inflation, which has a dramatic impact on school districts. Senator Huppenthal asked for more details. Dr. Carter replied that for the 1998-1999 school year, the base support level was approximately \$2,500 when it should have been \$2,700. Senator Huppenthal asked if the cost study is always behind time. Dr. Carter indicated that his point about the cost study is that no one is getting an accurate picture of the cost provided to special education, when the critical variable related to inflation is ignored.

Dr. Carter suggested that the cost study did what many wanted it to do, that is provide a

very restrictive analysis. Statutory weights were linked to Group B categories but conclusions could not be made about additional costs related to Group A. There is only an assumption that the monies generated under Group A statewide covered all known expenditures for those categories. He explained that districts know their expenditures for those other programs, and they can assign what is left over to the Group A categories. What is happening from a systems perspective, there are districts burdened with inadequate funding structures that results in inadequate programs or a cutback in services. Senator Huppenthal questioned if that is evidenced by reduced services rather than higher costs. Dr. Carter replied that because it is a closed system with an allowance, districts are forced to prioritize, and because special education is a mandated program that has first priority, other programs suffer. Senator Huppenthal stated that if the loss of inflationary funding has resulted in a reduction of quality of services and the cost study assumes that the level of services remain constant, it comes back to the fact that the quality of service is everything in this type of program and the districts need to create an environment of not just covering cost.

Dr. Carter stated that he feels there needs to be a system of accountability for performance. He said that he picked up from the Senator's previous remarks that he was concerned with identification efforts on how the districts qualify the at-risk kids versus the children with learning disabilities. Senator Huppenthal suggested that the goal is to develop some quality measures that do not burden the districts with more paperwork for very little additional monies.

Dr. Carter indicated that there are some critical issues related to underpaid teachers and the teacher shortages. Districts are relying on overrides which were never designed to be a permanent solution to funding. Some districts turn to other funding sources that bypass the taxpayers approval. From a broad perspective, the argument about Group A not accounting for real unfunded cost and inflation is supported by those real conditions out there.

Representative Knaperek asked if the inflation issues refer to only Group A. In fairness, she said that she is not aware of any cost study that the State does that includes inflation. She said that she understands the problem, however, the Legislature does not look at inflation. She stated that she hopes he is not suggesting that they put it in, because they would have to do it for everyone. Dr. Carter replied that whatever adjustment comes out of this process, while the State may not be able to undo the prior ten years, the bottom line will represent the real needs and the money required to provide those services. He explained that the State cannot give \$9,000 to provide services to an autistic child, when it cost the district \$20,000.

Mr. Hunter stated that one of the important things to recognize about the cost study is that it did not appropriately demonstrate the cost for general education for either the unfunded or additional costs. The tendency of the system is to look at the base level funds for general education. In reviewing Section 901 of Title 15, the definitions of the Group A and B weights are listed, which provides a general target. Unlike what is done with other sections of school finance, these dollars are not colored differently, so they cannot be spent differently, they go into one large pot. That is good because the system allows the districts a maximum flexibility. There are other states whose funding system does not allow that

flexibility, a special education dollar is a special education dollar which cannot be transferred over as is done with capital and M&O money. He said that he would not want to begin to color the dollars differently. When it comes to inflation, it is important to recognize that taxpayers and citizens are not guaranteed inflation. Imagine a retail store whose company's policy was to adjust the prices on their products every year to keep up with inflation; that business would not stay in business very long. One of the things that Dr. Carter's concerns could lead to is a percentage reimbursement system, where the district is reimbursed for the actual reported cost. The largest criticism for those types of systems is that there is a great deal of difficulty managing the cost which can skyrocket because there is no cap. In a system such as Arizona's where there is no cap, the funding could often go up to that cap and once it is there, complaints begin regarding the additional and unfunded costs. That is a component of all of the funding systems, not just education. There is always a concern about the impact of inflation.

Representative Knaperek stated that the point will probably become mute if the Education 2000 initiative passes since there is inflation involved in it.

Mr. Ward talked about the quality of education and the difference it makes in an individual's life. He stressed the importance of looking at the outcomes to ensure the education is having a positive impact on the children.

Ms. Kathleen Stillwell, Arizona School Health Insurance Program (ASHIP), distributed a handout (Attachment 9) and explained that the primary goal of ASHIP is to support healthy school communities in Arizona. She indicated that their mission is to be viewed as the premier provider of quality and excellence in health services, insurance programs, and administrative services for school employees and children attending Arizona schools. She said that Arizona was in a health care crisis in 1992 and 1993, but that was nothing compared to what it is today. ASHIP was started as a solution for the schools, particularly the small and rural schools who had no alternative for purchasing benefits for their school districts. At that time, sponsored through a loan from the Arizona School Risk Retention Trust, ASHIP was formed and incorporated as a nonprofit corporation in December 1994, and in 1995 they rolled out the first alternative health insurance benefit program for schools in Arizona. It was successful and ran for two years in which time market capacity and pricing changed and schools were able to get out of their crisis, although it turned out to be short-lived. Many carriers gave two- and three-year rate guarantees, which have since been eliminated. Currently, they are contemplating a new benefits program to be offered next year to the schools.

Ms. Stillwell stated that ASHIP is a public agency pool formed and authorized to enter into an IGA with AHCCCS pursuant to ARS §11-952-01.C. ASHIP is a cooperative procurement unit approved by the Arizona State Board of Education and they are enabled through ARS §15-382.B.1 to participate in pools formed to provide services enumerated in ARS §36-2907. Members come from the public and charter schools with a total of 147 (93%) districts participating. ASHIP is governed by a board of trustees comprised of school leadership professionals.

Ms. Stillwell explained that in 1997 they were approached by AHCCCS to be a strategic

partner in School Health – Arizona's Partnership with Education (SHAPE). SHAPE is a program that reimburses schools for providing administrative outreach services to AHCCCS eligible students.

Representative Knaperek asked if the outreach services were previously performed by someone else. Ms. Stillwell replied no, that these services have always been performed by the schools. Administrative outreach services reimburse schools for what they already do, identifying children who need a referral for medical, mental, or dental health services. To date, that program has been very successful and has brought over \$47 million to the schools.

Representative Knaperek indicated that schools received \$47 million from the federal government through Medicaid dollars. If ASHIP is the contractor for that service, do they receive a portion of the \$47 million? Ms. Stillwell responded that there is a fee, as the administrator they cannot exceed 2% of the claim. She explained that when the program first started, Deloitte Consulting was the contractor charging 17%. Representative Knaperek said that she wanted to ensure that ASHIP was not the same contractor receiving the 17%. Ms. Stillwell replied that Deloitte neglected to respond to the Request for Proposal (RFP) last year and the contract was awarded to another vendor who only charges 10%.

Ms. Stillwell explained that the schools participate in a weeklong time study each quarter. The people participating in the time study are notified a week in advance. During that week, teacher's use a daily timesheet to document their activities. Timesheets are sent to the vendor who analyzes the data.

Ms. Stillwell indicated that ASHIP is currently in the process of obtaining approval from the Health Care Finance Administration (HCFA) Region 9 to allow schools to recover 50% of the administrative cost.

Ms. Stillwell further explained that there are certain restrictions on how the schools can spend the monies. There are several audits conducted to ensure the money is handled appropriately and ASHIP has had no audit findings in the three years they have had the program. She indicated that the requirement is that the schools must use the money to benefit children. Representative Knaperek questioned that the requirement is fairly general. Ms. Stillwell provided an example that a principal receiving a new desk does not benefit children. However, if a classroom is installing a new computer, that benefits children. Representative Knaperek stated that a computer is not related to Medicaid. Ms. Stillwell responded that it does not have to have any relation to Medicaid; the money can be used for whatever benefits children.

Representative Knaperek questioned why only 147 schools were participating. Ms. Stillwell explained that the reason all of the schools do not participate is because people did not feel that they could get the money without a great deal of bureaucracy. She indicated that the program has grown by the marketing efforts of ASHIP. The schools that are not participating generally have a very small enrollment. The smallest school in the program has 75 students. Representative Knaperek questioned if the 147 schools participating received \$47 million a year. Ms. Stillwell answered no, to date, the schools have received

\$36,742,000.

Ms. Stillwell explained that ASHIP has a technical advisory committee whose members are special education personnel, business managers, superintendents, and assistant superintendents that help guide the program. ASHIP's goal is to develop programs responsive to the Arizona schools and to continue their administrative simplification efforts.

Representative Gray questioned that the title of the program is Arizona School Health Insurance Programs, yet the monies can be used to purchase anything that helps students. She asked what part of the money is used for health concerns. Ms. Stillwell replied that ASHIP makes distribution of the monies to the districts and they determine how the money is spent. ASHIP provides the federal guidelines as to what the schools can or cannot do with the money. There is no relationship to health insurance, although some schools have enhanced their health services with staffing, materials, supplies, and training. Representative Gray asked if there is any documentation that shows if the money is spent on the health needs of children. Ms. Stillwell indicated that she did not have information on that. Representative Gray asked if the primary intent is to use the monies for student health issues. Ms. Stillwell said that there are no provisions in the federal regulations. Representative Knaperek asked if the federal government is reimbursing the school districts for doing the outreach and if enrollment of special needs students has increased because of the project. Ms. Stillwell replied that the program is not driven by the special education population, rather the program is for AHCCCS eligible children.

Representative Knaperek asked if the schools are getting paid to distribute KidsCare information. Ms. Stillwell said that there is no relationship between ASHIP and KidsCare. She indicated that she was not aware of the schools distributing KidsCare materials. Representative Knaperek suggested that the schools could distribute KidsCare information because it is part of the AHCCCS program in Arizona.

Mr. Hunter stated that these are costs that school districts are incurring anyway and now they are receiving reimbursement for them. Is there an incentive to provide more service than was provided in the past because the schools know they will receive a reimbursement for it? Ms. Stillwell replied that she does not see it as an incentive program but a program that encourages school employees to take good care of the students. Mr. Hunter asked to what extent the outreach program or the direct reimbursement program students overlap with special education. Ms. Stillwell replied that in the outreach program, the student does not have to be a special education student. The outreach program is for AHCCCS eligible students, and the vendors are required to ensure that the students are AHCCCS eligible. The direct medical services impact special education students, and because they must be AHCCCS enrolled as well, there is a high probability that there would be an overlap.

Representative Knaperek asked if the reimbursement dollars were targeted for special needs children. Ms. Stillwell said that she was not able to answer that question, but explained that there are federal guidelines in place for the program. Representative Knaperek said that she thought they were talking about Medicaid which is different from AHCCCS. Ms. Stillwell explained that since 1985, Arizona has had a waiver from

Medicaid. Representative Knaperek stated that AHCCCS is huge, offering all types of programs. When talking about Title 19 eligible children which are usually special education children, there are a number of programs in AHCCCS. She said that she thought the speaker was talking about the Medicaid program. Ms. Stillwell replied that she is not talking about the Medicaid program. The direct medical services would reimburse schools for speech, physical, and occupational therapy. There are a number of other services that can be reimbursed according to the federal guidelines, such as transportation and nursing.

Representative Knaperek asked Mr. Lockery to look into some of the issues the Committee was unable to get answered today.

Representative Knaperek said that there has always been a debate between eligible and noneligible services. Is there going to be any type of limitation on the type of services? Ms. Stillwell said that she has not seen the guidelines, but her sense is based on the guidelines in other states, the services a child is receiving today will be the same tomorrow. Representative Knaperek said that she felt the mission of the Committee was to integrate services so that the child receives all needed services at school. However, from what she is hearing, it is not going to occur. Instead, the State will be spending more money for the same things they have now. For example, she is a parent of a child who needs five hours of physical therapy, but the administrators at the child's school explain that they can only provide one hour of physical therapy every two weeks. Consequently, the child will need to receive the rest of the physical therapy from DDD. If the school becomes an ASHIP member, will the child be able to receive five hours of physical therapy at the school because it is medically necessary? Ms. Stillwell said that she does not know the answer to that question because she has not seen the guidelines AHCCCS will be offering. However, her expectation is that the child will receive the services that they have been receiving at school. Representative Knaperek commented that nothing is changing except the schools will receive more money from taxpayers. She suggested that it is not how she envisioned this process when she started working on it many years ago.

Mr. Mishlove explained that the services that will be reimbursable will be those specified in the student's individualized education plan (IEP). Representative Knaperek stressed that still is only the education plan, it is not the whole child. Mr. Mishlove responded that initially there was a provision in the plan indicating the service must be provided at the school site. He indicated that language was incorporated to include services provided in the home.

Representative Knaperek emphasized that she is looking to streamline the system instead of making people go to several different places for services. She said that the Committee should also be looking at the financial integration piece.

Representative Knaperek asked if there was an organization prior to ASHIP. Ms. Stillwell replied that the initial organization existed from 1995 through 1997 that offered insurance benefit programs. Representative Knaperek asked if they still offered health insurance benefits to school districts. Ms. Stillwell indicated that they currently do not, but are looking at offering a program in the 2001-2002 school year.

Representative Gray mentioned an article in the ASHIP newsletter titled "Viagra and Your

Heart" and questioned how that helps children. Ms. Stillwell explained that ASHIP only prepares the front and back of the health and wellness newsletter and pointed out that it does not go to children, but to the business manager at the schools. Representative Gray noted that part of the funding that she would hope was going to children's needs was actually being used to publish the newsletter. Ms. Stillwell responded that they were not aware that the article was going to be in the newsletter.

Ms. Teri Graf stated that as a special education teacher, she has had an opportunity to participate in a time study. It is a very exact study showing what the teacher is addressing with the children in terms of offering medical support. As teachers, nurses, and counselors throughout the school district, they have always found that they are not just educators, but are also Moms, doctors, and wear a variety of different hats. She explained that she is at the high school level and has encouraged kids to go to Planned Parenthood, etc. She emphasized that by participating in the time study, it helps the school district to continue providing support services for the children. Mesa Public Schools has thoroughly appreciated being active participants in this program. It has been a financial assistance, as well as enlightened teachers as to how much beyond the educational duties they do on a daily basis.

Representative Knaperek asked if she spent time referring kids to Planned Parenthood. Ms. Graf replied that some children have asked where the local Planned Parenthood office is located, or how to find a family doctor, or where to go because their glasses broke. Representative Knaperek stated that she feels it is important to ensure that the parent have not been excluded. Over the years, some parents of special needs children have expressed concern that their child is being referred to do things that are against the rules at home. Parents find it difficult to deal with those types of things.

Ms. Graf stated that most special education students have the right to stay in school until they are 22, and therefore, she does teach a number of children who are over 18. Representative Knaperek stated that she understands, but it is an issue for parents. It is important to value the family first and take care of the child at the same time.

Mr. Hunter said that he feels that he and Mr. Lockery need to review what the connection is between direct reimbursement and outreach services to special education. He indicated that they should review the Washington model to observe how revenues are used. Representative Knaperek suggested that they also investigate whether the State can impose a statute directing the money in a specific direction.

Ms. Linda Irvin indicated that she needed some clarification regarding a statement referring to the reimbursement for medical services. She said that she heard Mr. Mishlove mention that the IEP shows the educational services. She said that she feels it needs to be made clear to school districts what the differences are. Representative Knaperek said that she does not understand it either because it was her understanding that they were going to receive dollars for the whole child.

Mr. Mishlove referred to Mr. Hunter's question regarding the agreement and impact on direct services for children with special education needs. The agreement only addresses

the needs of students who have IEPs. For the direct reimbursement, it only addresses special education. He referred to Ms. Irvin's concern and admitted that it was a concern as they developed the agreement with AHCCCS. However, it appears that there will not be any significant issues regarding the distinction between educationally and medically needed services. It is his understanding that the services specified on the student's IEP are the ones that will be reimbursable.

Mr. Hunter asked since the direct reimbursement is only for students with an IEP and who qualify for AHCCCS, has an incentive been created to give an IEP to every poverty student who qualifies for AHCCCS. Representative Knaperek indicated that an IEP is defined in law and cannot be given to just anyone, a child must be eligible for those services and fall into the specific categories. Mr. Hunter questioned if the children covered under 504 have an IEP. Ms. Irvin explained that they receive a 504 Accommodation Plan which is different from an IEP which follows IDEA regulations. Representative Knaperek said that she feels the term IEP is loosely used in the schools, but not all of them are considered the special education Group B student's IEP.

Mr. Mishlove indicated that the flowchart delineates the specific steps in which all schools must go through to determine whether a student is eligible to receive special education and services under IDEA. He said that he finds it difficult to believe that there are individuals in the schools who would falsely identify students because the students would need to be evaluated by competent trained professionals.

Mr. Mishlove stated that earlier there was a discussion regarding the percentage of children in special education compared to the total school population. He said that there are various outcomes and performance indicators. When they do go out to monitor, there is a performance indicator that shows that a school's special education population should be within a range of 9% to 13%. There are great variances between schools; some schools have an enrollment of less than 3% where others are over 20%. That is something that they look at when they monitor school districts.

Representative Gray questioned if the monies received from ASHIP are counted as revenue sources and who tracks it. Mr. Mishlove responded that JLBC tracks the dollars in their budgets.

PUBLIC TESTIMONY

Ms. Margaret "Midge" White, M. M. White Consulting, stated that it does not appear that the Medicaid reimbursement is going to be the "Golden Egg" nor will there be a windfall from this to offset the money that is needed in Group A and B. The monies will help but it certainly will not solve the problem. She indicated that Mr. Carter mentioned that the Group A money includes some art, music, and several other gifted programs.

Representative Knaperek said that it is her understanding that the Group A money was not meant to totally fund all of the programs, but to be a supplement. If it is only supplementing than it is not measurable.

Mr. Carter said that the assumption is that there is enough additional revenue source calculated on the total population to support all the programs. By statute, sufficient revenue is generated to sustain all the additional programs.

Representative Knaperek stated that the AG's office inquired as to what legislators wanted in the audit for the early childhood development grant. She asked them what it does. They responded that it can do a number of things. She questioned if it totally funded any of the programs and their reply was that it did not, it only supplements other things the districts are doing. So how can anyone know if it is helping. Some districts receive \$12,000, while others get \$500,000. She suggested that there is no way of knowing and that is the dilemma, when they try to put flexibility in, accountability is lost.

Mr. Mishlove said that they did not want to destroy the current system although there are some issues that need to be addressed such as the distinction of funding between a resource student and a self-contained student in a variety of the categorical areas. Aside from that, the system that exists today should not be altered significantly. Certainly, there are provisions for catastrophic events. If quality of programs can be determined, there could be a financial incentive for that made available. Overall, most everyone is satisfied with the system as it is.

Ms. White indicated that the Learning Disability Association of Arizona is a group that has been short-changed for many years. There are many case studies documenting that their students' needs are not totally met through the districts. These children have such potential and with the correct type of education, they will be able to move into the mainstream of society. Representative Knaperek asked if these children should be moved to Group B. Ms. White answered no, she feels there needs to be some type of accountability or reporting process to track that their needs are being met. She indicated that she has five children, one with Downs Syndrome and one with a learning disability. The child with the learning disability went through college and is a teacher but is sensitive to being labeled. It is important to keep them in the noncategorical area and still meet their needs.

Mr. Hunter stated that the systems that emphasize the Flat Grant or Census-Based Systems do not have a problem of overcategorizing. In fact, it is the reverse, they have a problem undercategorizing students. The funding system itself is not going to solve the problem of accountability.

Ms. Irvin said that the Committee should look at the types of services being presented, not just the categories. How much service does a child need. A student may require a full-time assistant or additional related services in the classroom, which needs to be taken into account when looking at funding issues. Representative Knaperek asked if good assessment tools were in place to identify the needs, or if that was part of the problem. Ms. Irvin replied that the current assessment tool is the IEP team that determines what the appropriate goals and objectives are and then what related services are needed to implement them. Representative Knaperek suggested that the IEP does not show how long it will take to accomplish the goal and questioned if there is such a tool. Ms. Irvin replied that she is not aware of a specific tool that will measure outcomes.

Mr. Mishlove said that within the Group A categories, the level of severity of disability can be extreme. A child can have a very mild learning disability or a child can be severely learning disabled, yet it is important to provide the level of service to meet those children's needs and it can be very expansive. Representative Knaperek asked if that is what the weight is suppose to accomplish. Mr. Mishlove provided an example that for funding purposes, emotionally disabled child is labeled ED label. There is also an EDP label which is for those individuals placed in private schools. The ED students can be placed in separate programs within public schools now. The difference is the intensity of the program and the services provided. That is in conflict with the placement neutral funding issue. Something needs to be in place to review individual needs of the student, no matter what the disability, because the levels of severity can be very extreme whether it be a Group A or Group B disability. Representative Knaperek questioned that is what the IEP is for. Mr. Mishlove stated that the IEP delineates the needs of the student and the specific special education and related services required. However, that does not have a direct correlation to the level of funding the student will receive; it is more a categorical funding mechanism. Representative Knaperek said that he is suggesting matching the dollars to the needs not the category. Ms. Irvin added that the dollars should be matched to the level of service that is required for the student to benefit from education.

Ms. White stated that six years ago when the Family Support Law was established, the IEP teams requested guidelines be developed that would indicate the appropriate services needed for a specific disability. To date, those guidelines have not been worked out. Representative Knaperek suggested that a risk pool fund be set up where IEP teams could apply for additional dollars. Ms. White responded that a risk pool would also help Senator Huppenthal's concern regarding the small district, providing a resource to tap into.

Representative Knaperek asked Mr. Hunter if other states use a risk pool. Mr. Hunter replied that he has not found any states doing that. Mr. Mishlove indicated that with the federal dollars, a fund was set aside for catastrophic costs.

Mr. David Demland, Father of a Special Education Student, explained that he and his wife have seen their freedom of choice taken away from them. Their son has Duchenne Muscular Dystrophy and needs a one-on-one aide. To meet this one need, the school district requested that they remove their son from the private school he attended. Mr. Demland quoted from the Webster's Dictionary: blackmail – to compel, to act in a particular way by reasons of threat. He said that he believes the school district blackmailed him into putting his son into a public school. He stated that this request is in direct opposition of both the school district's psychological expert, as well as the family's psychologist who believe the child should remain in the private school. He suggested that he is present today to introduce a voucher system that would move special education money wherever it is desired and give the parents freedom of choice. He said that he feels that the government has stripped his family from their freedom of choice and wondered whether that was proper. He explained that the public school will now not only pay for the one-on-one aide, but they will also pay for transportation, occupational and physical therapy, and resource education. Most of these services were already being provided by the family or the private school. Where is the fiscal responsibility of the schools? They complain that they are underfunded, yet when faced with an inexpensive option, they do not exercise that option.

Mr. Demland reminded the Committee that the Supreme Court in June opened up vouchers for special education in limited neutrality tests. He asked that the Committee seriously explore this. He suggested that by using the form he designed (Attachment 10), schools could calculate exactly what the cost is for each child. What is even better it is based on services performed. Why not meet the financial needs of the children directly? Mr. Demland stated that he believes the most important issue the Committee should consider is the best interest of the children.

Mr. Demland explained that his child was uprooted from what was deemed by two psychologist as his best interest to be put into a whole different environment. The last two nights, his son has woke up screaming and scared. He said that he has no idea if it is because he has been removed from the school he has attended for so many years. Please consider parents.

Representative Knaperek agreed that the parents should be considered when deciding what services are best for the children. Those are issues the Committee needs to seek solutions for. Representative Knaperek asked if he was able to obtain a voucher, where would he send his child. Mr. Demland replied that he would return his son to Phoenix Christian Grade School, which is what the psychologists have said is in the best interest of the child. Representative Knaperek asked if he had worked with the Special Education Section of the Department of Education to solve this issue. Mr. Demland explained that he had exhausted all his resources. He appealed to the district public board last Tuesday and has yet to receive a comment. Representative Knaperek asked if he would share the name of the district with the Committee. Mr. Demland replied that the school district is Creighton Elementary. He indicated his confusion at the decision because the school district pays for the one-on-one aide whether the child is in the public or private school; however, in the public school, there will be additional costs that were previously paid for by the family.

Mr. Mishlove said that according to the IDEA '97 amendments and the implementing regulations, children placed voluntarily in private schools do not have an entitlement to services. However, school districts and charter schools are required to allot a portion of their funds for children in private schools. It is each school district's decision as to how those monies are allocated.

Representative Knaperek said that she recalls a similar situation in Tucson where the parents felt that their child's services could be best provided in a private placement. The school district refused to pay for the services. The parents went to court and won and the school district had to pay for those services. She stressed that Mr. Demland has gone to the school district that has the power to make these decisions, and even with the professional's recommendation, the district is not accepting how the parent wants the services delivered. He has no other option if the district says no. All he wants to do is return his child to the private school and have the school district pay for the one-on-one aide, which would be less expensive than having the child in the public school.

Mr. Demland indicated that the district made it very clear that the only funding available to the private school is from federal dollars, state dollars are not to be considered. Mr.

Mishlove said that he believes State law prohibits State aid to nonapproved private schools for special education. Representative Knaperek said that she did not think that was accurate because there are vouchers available for special education. Mr. Mishlove said that there are residential and institutional vouchers. The institutional vouchers are for children who are placed in the Arizona School for the Deaf and Blind, Phoenix Day School, or the Arizona State Hospital. The residential vouchers are for children who need 24-hour residential treatment, typically because of severe emotional disabilities. Those are the only two voucher systems that he is familiar with. Representative Knaperek asked if the districts send children to other placements if they cannot provide services. She said that she is calling it a voucher because the district has to pay for the service.

Mr. Carter said that the difference is that the federal law does not prohibit the contribution of State funds to support a child placed in a parochial school. The difficulty is the standard that says, "proportionate federal funds may be allocated based on the total number of disabled children who are attending parochial schools." There is no individual entitlement. Once the parent has chosen a parochial or private school, there is a process of identifying the child's needs. The school district develops an IEP as if the child is attending the public school, and then works through what services the district may or may not provide. He suggested that Mr. Demland is correct that the level of service is not as intense in the public school.

Ms. Irvin stated that it is her understanding that if a child is enrolled in a parochial school, the only funding mechanism in place to recoup any monies would be through the federal dollars.

Mr. Mishlove indicated that children can be dually enrolled. Mr. Demland replied that the district ruled that out.

Representative Knaperek stated that there is a woman who has contacted her office on several occasions who wanted to testify but was unable to attend the meeting. Instead, she submitted a letter (Attachment 11) that basically outlines her frustrations.

Representative Knaperek stressed that although there are 15 Committee members, only seven members were present, therefore they did not have a quorum. She asked if the members wanted to meet again, and in the meantime work in groups to develop some solid recommendations that the Committee could vote on at the next meeting. Or would they prefer to develop a report on some of the issues that have been addressed and then submit legislation and see where it goes.

Ms. Irvin suggested that if the Committee meets again, they need a month advance notice now that school has begun.

Representative Gray said that she would like the Committee to meet again and that she is interested in Mr. Demland's suggestion on how to make this better for children and their interest. Representative Knaperek said that the members who work at schools are not going to be able to attend a subcommittee meeting and then return for another full Committee meeting.

Representative Knaperek suggested having a working group that will meet and work out the issues and then have a meeting in a month to present the information to the entire Committee. In the meantime, Mr. Hunter and Mr. Lockery will do some background data research on some of the issues.

Mr. Lockery pointed out some of the issues raised in the meeting: 1) vouchers, 2) service need model, 3) funding of risk pool, 4) learning disabled, 5) quality incentives, and 6) quality of services.

Mr. Hunter asked how Representative Knaperek envisioned the Committee's work playing out with the December 1, 2000 report deadline along with the November 7, 2000 election with Proposition 301 being on the ballot. He asked if she envisioned that the report would include a contingency if 301 passes. Representative Knaperek replied that she would tie the inflation issue to Proposition 301, but other than that there is nothing in Proposition 301 that deals with special education. Representative Knaperek said that she sees other issues besides just more money. There are systemic issues such as quality of services, evaluation, portability, accountability, and is the system doing the best job. As well as, the slight changes that might be needed to not only meet the federal mandates, but also meet the needs of the children. She stressed that every year there are districts with a large percent of special education children, which makes the cost higher. She said that she feels that is where the risk pool will assist.

Representative Knaperek suggested that even if Education 2000 passes, special education will not be funded adequately, because the federal government is not paying its fair share. She stressed that the funding issue is important, but she feels the Committee's task is to reform or reengineer the system, whether it be a little bit or a lot. She indicated that she also wants to implement some creative means to obtain quality services for children and to put more accountability into the system.

Ms. Irvin said that in order to do the things that were just mentioned she feels the adequacy of funding must be a part of the consideration. Representative Knaperek said that is correct, however, she does not feel it is connected to Education 2000. She said that she does not want to connect the two because the bulk of that money is for teachers and prevention.

Ms. White said that last session the bill to fully fund Group B did not pass and asked if the Committee could look at that issue. Representative Knaperek said that they could take that into consideration.

There being no further business, the meeting was adjourned at 4:25 p.m.

Respectfully submitted,

Carol Dager

Committee Secretary

* (Tapes and attachments on file in the Secretary of the Senate's Office/Resource Center, Room 113.)

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ARIZONA STATE LEGISLATURE

JOINT LEGISLATIVE COMMITTEE ON SPECIAL EDUCATION AND REGULATIONS

Minutes of the Meeting
Thursday, October 26, 2000
1:00 p.m., House Hearing Room 4

Members Present:

Senator Huppenthal, Cochair
Senator Aguirre
Senator Bennett
Delia Alston
Michael Hunter
Mimi Rogers

Representative Knaperek, Cochair
Representative Gray
Representative Norris
Teri Graf
Steve Mishlove

Members Absent:

Marolyn Haws
Danielle Jones

Linda Irvin
Steve Kaipers

Staff Present:

Brian Lockery, House Research Analyst, Education Committee
Kimberly Yee, Senate Research Analyst, Education Committee

Chairman Huppenthal called the meeting to order at 1:12 p.m.

Michael Hunter, Arizona Tax Research Association, reminded the Committee that his assignment was to provide updated information regarding Medicaid reimbursements, both for Outreach and for direct reimbursement of medical services. Also, he was asked to research voucher options in the Special Education environment. He began with discussing an article entitled, Special Ed: The New Pacman in State Budgets (Attachment 1). There is a federal mandate that school districts educate disabled students within a general education setting. This expanded responsibility has resulted in the need for more medical and physical therapy in schools. Districts are increasingly seeking Medicaid reimbursement for medical procedures that in earlier times were performed in medical facilities. The most current analysis was conducted in 1994-1995 by the Center for Special Education Finance (CSEF) which showed of the 42 schools surveyed, 41 were receiving Medicaid funding for Special Education. It was not a large amount of their total special education budgets. Most of the schools were at 1% or less of their total special education budget. Exceptions were Rhode Island with 2%, Michigan with 3% and Louisiana with 16%. In the years following that survey, it has increased significantly. A recent General Accounting Office (GAO) report indicates that there are 47 states receiving Medicaid funding amounting to approximately \$2.3 billion. Arizona is currently the only state not receiving direct reimbursement. Typically, reimbursable services include physical, occupational, and speech therapy, and diagnostic, preventive and rehabilitative medical services. Mr. Hunter mentioned that there are increased efforts by state and local governments to qualify for Medicaid reimbursements which is indicative of the increasing pressure that special education is exerting on funding sources.

Mr. Hunter explained that in an April, 2000 GAO report submitted to the Senate Finance Committee, it stated that there was "poor oversight and improper payments compromise potential benefit" for Medicaid in the schools. In December 1999, it was noted that the evolution in the schools with Medicaid and its relationship with Individuals With Disabilities Education Act (IDEA). The June, 1999 report discussed "questionable practices boost federal payments for school-based services." There are a number of different problems that they discovered with school district claims requesting Medicaid funding. One of the largest ones is called "bundling" where it was difficult to "weed out" what the precise services were. GAO cited a lack of guidance from the Health Care Financial Administration (HCFA) and many variations in institutions between states and districts that were resulting in some of these problems. Since 1988, Medicaid has been required to reimburse for IDEA-related medically necessary services for eligible children before any IDEA funds are used. He noted that there is a relationship between federal dollars for special education and Medicaid for students for disabilities. As a state, they need to determine what other states are doing and what the HCFA guidelines are.

Mr. Hunter next pointed out the Arizona programs that include Medicaid Outreach, sometimes referred to administrative services for Medicaid. Since these services began in 1995, \$51 million have been distributed to school districts. In the handout, there is a data sheet that shows the amounts for each district that were available, which totaled \$46 million. The report does not include the most recent claims, which is the difference between the \$51 million and \$46 million. Mecca Tech replaced Deloitte & Touche in receiving the claims from the districts and preparing the time studies. The next phase is the direct reimbursement. No money yet has been received in Arizona for direct reimbursement. There now is an Intergovernmental Agreement (IGA) (Attachment 2) that includes reimbursement for physical, occupational, and speech therapy. Arizona Health Care Cost Containment System (AHCCCS) has asked for proposals and Arizona School Health Insurance Program ASHIP has responded. He understands that the award will be made soon. ASHIP is prepared to begin training for schools in November. There was some dissatisfaction regarding the IGA from the Flagstaff Unified School District (FUSD) because it did not include behavioral health, nursing, and transportation services. In addition, the schools feel that they should be able to receive some of the revenue retroactively. They also submitted a deadline to the state that if they did not receive a favorable response, they would litigate. Apparently, the state did respond favorably. Mr. Hunter mentioned that he did talk to Superintendent Larry Bramblett from FUSD this morning who indicated that they do not intend to litigate. However, they are still concerned that the state may not follow through. Mr. Hunter explained that it is his understanding that AHCCCS has applied for the additional services and requested a retro period of 24 months. Direct medical service claims should begin as of January 2001.

Representative Knaperek asked what grounds FUSD would have for a lawsuit on the retroactivity clause. Mr. Hunter replied that their argument is that Arizona is breaking the federal law because it requires participation. Mr. Bramblett promised to send Mr. Hunter a copy of the statute that he believes the state is violating.

Representative Knaperek stated according to the FUSD superintendent the state is breaking the law because Arizona is not reimbursing for Medicaid. Mr. Hunter answered correct, that is the terminology the superintendent used. Representative Knaperek asked if the Department agreed with that statement. Mr. Steve Mishlove indicated that he does not agree. The law indicates that a state can provide or pay for those Medicaid services. The factual matter is that the agreement was not finalized until just recently, although the

requirement was in place with the 1997 amendments of IDEA.

Mr. Hunter suggested that there are two recent articles from Education Week that are important for the Committee to read. One is entitled, "Schools Fret Over Freeze in Medicaid." For every \$100 claimed in different states school districts received different net amounts for this revenue. In New Jersey, only \$7.50 goes to the school district out of every \$100 in Medicaid. In Florida, \$46 out of every \$100. Because of this analysis, HCFA has frozen things and will be reviewing each state and determine if more of the money can reach the economically disadvantaged students it is suppose to go to.

Mr. Mishlove pointed out that they are currently in the process of reviewing bids for the third-party administration of the Medicaid funds. There are four viable bidders. Hopefully they will have a decision in the next couple of weeks. Mr. Hunter asked if ASHIP was one of the bidders. Mr. Mishlove replied yes. Representative Knaperek questioned if there will be any restrictions on the amount of money the intermediary entity will be able to collect. Mr. Mishlove said that he does not believe that the Request for Proposal (RFP) included a restriction on the administrative costs. He indicated that in his discussions with AHCCCS, they emphasized the need to keep costs down so that the greatest amount of money flowed through to the local education agencies. As ASHIP currently subcontracts with Mecca Tech, it was hoped that such a subcontracting situation would not occur. That has not been prohibitive in the RFP process. He said that he does not know what the bidder will request in terms of administrative cost, especially if they subcontract services.

Representative Knaperek suggested that if there is no restriction and all the bidders are high could the Department deny them all. Mr. Mishlove responded that they could deny them all.

Mr. Mishlove mentioned that although the current Medicaid agreement addresses only physical, occupational, and speech therapy, it is moving in a very quick pace with the addition of the other services mentioned, along with personal attendant care. In an educational environment that could equate to a one-to-one aide for an individual student. They are also talking about the possibility of case management services being included. Within the IGA, it is very clear that the Department and AHCCCS will move very quickly to add additional services to the agreement.

Representative Knaperek asked if anyone was present from a school district because she would like to know how they feel about this.

Ms. Teri Graf remarked that in the last ten years, as more children have entered into the schools with different medical problems, the school districts are required to meet those medical problems during the school day. There are one-on-one attendants, as well as people from the medical community hired to help the special education students, because the teachers and school nurses are not able to handle the procedures that are necessary for these students. Also, there has been some discussion about bus monitors for behavioral children who need assistance on the bus. The Medicaid reimbursements allow the districts some leeway to hire additional staff to help support the special education students.

Mr. Craig Carter, Director of Special Services for Washington Elementary School District, commented that they are excited about the direct reimbursement program. If

there is any disappointment, it is the restrictive nature of the agreement. He said that he is encouraged by the fact that the state is looking at expanding some of the permissible reimbursement activity, such as health services, transportation, and physiological services. Representative Knaperek suggested that there could be a very medically involved child at school and questioned the benefit of having the child there. Mr. Carter suggested that is a difficult question. The IDEA is premised on a zero reject model, so regardless of the severity of the disability, the school has the obligation to provide services. Certainly there are many children who are served in different more structured, restrictive settings because of their medical needs. That is a very small percent of children. He explained that there are children in their district with a variety of significant health needs. He pointed out that they do a very good job of keeping them integrated in a normal setting. It is a commitment of resources.

Mr. Hunter commented that when he first met Mr. Carter, he was introduced to the many funding sources available in the Washington School District budget. However, in other districts this revenue is not necessarily used for special education, but for salary triggers for teachers. Mr. Carter indicated that in his district the budget process is needs driven. One could argue that they are currently subsidizing the special education medical costs from the general maintenance and operations budget because of the legal obligation. From his perspective, it all goes into one large pool and as long as the identified needs are funded adequately, regardless of the funding source (state, federal, Medicaid), he said that he is not worried about it. He indicated that his understanding is that it is an entitlement in terms of providing those services and being reimbursed for those services.

Mr. Hunter said that when they are looking at revenue shortfalls for special education, they look at money generated by the state funding system through B weights and various other places such as the federal money through IDEA. Mr. Carter responded that they would just be happy to receive the revenue. Representative Knaperek suggested that Mr. Carter did not care where it comes from. Mr. Carter replied that he does care. Representative Knaperek indicated that the state is suppose to receive 40% from federal dollars to fund special education and they actually receive 7%. Mr. Carter noted that they receive approximately \$71 million, but if it was fully funded at the 40%, it would be around \$221 million, which is a significant increase if the federal government would honor their commitment. Mr. Hunter explained that the federal government's position is that the 40% was set as a cap. They never intended to fully fund it.

Mr. Hunter reminded the Committee that in the last meeting they heard testimony from a parent who discussed parental choice voucher options. He stated that Arizona does have vouchers for special education. These determinations are made by the Individualized Education Program (IEP) committee which includes a parent in determining where the child will be served best. In his research, he could only find one state that is offering a parental choice voucher option and that is Florida. Representative Knaperek questioned if that was specific to special education children. Mr. Hunter said there is one that is specific to special education, which is the Exceptional Student Education (ESE) Scholarship. He provided a handout (Attachment 3) that explains the scholarship in detail. He further talked about the Opportunity Scholarship program which is headed for the Florida Supreme Court, but emphasized that the ESE Scholarships are not included in that lawsuit.

Mr. Mishlove clarified the voucher system explaining that the vouchers do not apply to all students with disabilities. There are two voucher systems. One applies to students who are placed through the Arizona State School for the Deaf and Blind; those are institutional vouchers. The other voucher is for the students who need placement in a 24-hour private residential facility.

Representative Knaperek referred to a section in Title 15 that indicates a school board can determine placement for a child.

Senator Aguirre asked how the reimbursement process applied to a private school. Do they get the reimbursement directly or does the school district have to apply and then pay the private school? Mr. Mishlove replied that there are different scenarios that could take place. If a school district or charter school determines that they do not have the services a child needs and they must contract with an approved private special education school, then the district would provide a tuition to that private school. There are situations where parents do not feel the school where their child is enrolled is providing the appropriate education. They decide to enroll their child in a private school and notify the local education agency. At that time, a due process hearing or litigation takes place to determine if the school was not providing an appropriate public education. The hearing officer could then require the school district to pay the tuition for that student to attend the private school, whether it is in an approved private special education school or a private parochial school. Representative Knaperek stated that there is a mechanism already in statute that probably needs to be broadened to accommodate these circumstances, rather than create a new law.

Representative Norris asked if the Arizona standards were concurrent with the federal standards in defining special education. Mr. Mishlove answered yes. Representative Knaperek added that it does not mean every state has the same standards, other states have higher standards. Mr. Mishlove clarified that the state and federal definitions are not the same. Representative Knaperek asked what the differences were. Mr. Mishlove said that the state definition allows for a broader interpretation of a special education child.

Ms. Mimi Rogers noted a requirement in Florida's ESE Scholarship program that indicates children with disabilities enrolled in a public school who are not making progress in two areas of their IEP. She questioned if a student is not making progress for example in their speech program identified in the IEP and the parent would prefer that the child receive this therapy outside the school. Can the parent apply for a voucher or does the student need to be moved to another institution? Mr. Hunter responded that in his research materials, he does not feel that issue was addressed specifically. He commented that he does have telephone numbers for the experts in Florida and could inquire.

Representative Norris asked how many private special education schools were prepared to take on special education programs? Representative Knaperek indicated that there are several more than there were a few years ago but does not know the total number. Mr. Mishlove explained that they approve private schools for the purpose of providing special education. Although he is not positive of the numbers he feels for private day treatment, there are approximately 30 schools statewide, and for private residential facilities, there are

about the same number. Representative Knaperek said that she knows that there are a number of new schools that are dealing with multi-disciplinary problems and asked if he had a list of those schools. Mr. Mishlove replied that the schools approved are based upon their ability to provide particular services to particular groups of students. Some of those students would be autistic, emotionally disabled, and learning disabled. There are schools that are not approved that provide these services, but in order to receive state funds they need to be approved through his division.

Mr. Hunter explained that schools need to apply to participate in the ESE Scholarship program. Once they are a participant, they must accept students who want to go there. The application requires an evaluation of their ability to perform the services.

Ms. Alston referred to the parent who voiced his concern at the last meeting about his son changing schools, and asked if that involved a noneligible school. What was the reason a voucher would not work in his case? Mr. Mishlove replied that was a placement that was made voluntarily by the parent in a nonapproved private school. There is no entitlement to fund for nonapproved schools.

Representative Norris asked how an IEP is developed. Mr. Mishlove suggested that there is a process that schools and families go through in placing children in special education. First is the evaluation of the student to determine eligibility and the need for special education. Once that determination is made then the parents, school personnel, and other pertinent individuals meet and develop an IEP. It is that plan that is the driving force behind the services that the student receives. It is generally that group of individuals that determines the place in which those services are going to be provided, whether it is a regular classroom, self-contained special education program, a private day school, or 24-hour residential facility. There is a continuum on placement options.

Representative Knaperek explained that they will not be voting today. She indicated that there will be another meeting and asked for each member to develop some recommendations.

Mr. Lockery pointed out that the report deadline is December 1, 2000 and the Committee is repealed December 31, 2000. He read the mission of the Committee, stating per Laws 1999, Chapter 67, the purpose of the Joint Legislative Committee on Special Education and Regulations is to make recommendations for possible modifications to the current special education finance formulas and systems based on the consideration of the following: 1) the federal requirements for a placement neutral funding system; 2) the appropriateness of assigning pupils to categories for funding purposes; 3) the complexity of the current special education funding formulas and systems; 4) the potential problems presented in a weighted system when the base level is not increased to adjust for inflation; 5) the impact of funding systems on the provision of necessary services in the least restrictive environment and the ability to make efficient and effective use of available funding; 6) the consideration of special education funding systems within the context of overall school funding; 7) the draft findings or the final report from the office of special education programs review of special education programs in this state; and 8) any other relevant or appropriate considerations.

Mr. Lockery explained that the Committee shall also examine the potential impact of the

new federal individuals with disabilities education act regulations including any regulations associated with suspension or expulsion of children with disabilities. The Committee shall examine and report recommendations regarding the formation of a group B special education risk management pool.

Representative Knaperek commented that she feels that the Committee has already dealt with the placement and category issues and feels comfortable about what they are doing with those issues. Some of the other issues were the pooling of funds for some school districts that have a high percent of special education students and the voucher to allow parents more flexibility.

PUBLIC TESTIMONY

Margaret White, M. M. White Consulting, said that she hopes the Committee will not spend time working on the entire system but just fine-tune it. She also asked if there is any possibility of the Group B weights being tied to the cost study so that it would start automatically.

Representative Knaperek asked Mr. Lockery to prepare a letter to our congressional delegates to fight for full funding to reach the 40% cap.

There being no further business, the meeting was adjourned at 2:18 p.m.

Respectfully submitted,

Carol Dager
Committee Secretary

(Tapes and attachments on file in the Secretary of the Senate's Office/Resource Center, Room 113.)

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Joint Legislative Committee on
Special Education and Regulations
October 26, 2000
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ARIZONA STATE LEGISLATURE
Forty-fourth Legislature – Second Regular Session

JOINT LEGISLATIVE COMMITTEE ON
SPECIAL EDUCATION AND REGULATIONS

Minutes of Meeting
Monday, November 20, 2000
House Hearing Room 3 – 12:30 p.m.

(Tape 1, Side A)

The meeting was called to order at 12:50 p.m. by Chairman Knaperek and roll call was taken by the secretary.

Members Present

Delia Alston	Representative Gray
Teri Graf	Steve Mishlove
Marilyn Haws	Representative Norris
Michael Hunter	Mimi Rogers
Linda Irvin	Representative Knaperek, Cochairman
Senator Huppenthal, Cochairman	

Members Absent

Senator Aguirre	Danielle Jones
Senator Bennett	Steve Kaipers

Speakers Present

Brian Lockery, Majority Research Analyst, Education Committee
Craig Carter, Director of Special Services, Washington Elementary School District
Amy Hyman, Legislative Liaison, Governor's Council on Developmental Disabilities
Jill Oberstein, Director, Arizona Technology Access Program
Steve Schimpp, Senior Fiscal Analyst, Joint Legislative Budget Committee (JLBC)
David Demland, representing himself

Opening Remarks

Chairman Knaperek stated that at the last meeting she asked everyone to provide recommendations to staff for review at this meeting.

Discussion/Consideration of Recommendations

Brian Lockery, Majority Research Analyst, Education Committee, reviewed recommendations

submitted by the Arizona Tax Research Association (ATRA) (Attachment 1).

Ms. Graf referred to Item #3 and noted that when she talked to the Director of Special Education about the Medicaid money, he said it is given to the district, but not earmarked for special education students. It is sometimes used for other students; therefore, she is concerned about including all Medicaid revenues. Chairman Knaperek opined that the monies should be spent on Medicaid-eligible children. If there is no Medicaid or Health Care Finance Administration (HCFA) provision requiring that the dollars be spent on special education students, perhaps it should be in State statute.

Ms. Norris related that she visited the Arizona School for the Deaf and Blind (ASDB) and was very impressed with the facility. She was told that a major concern with Medicaid reimbursement is that the money not be used to supplant current funds for special education. There is much more of an administrative burden to apply for reimbursement, so if it simply supplants the money currently received, the funds might not be worth pursuing.

Chairman Knaperek said she understands that a portion is used for administrative purposes separate from services. Ms. Irvin clarified that outreach can be for students who are eligible but not necessarily part of Medicaid and funds many different people in the district who help connect families with appropriate services. It is more of a prevention piece than a direct service piece. The direct service piece, hopefully, will go into effect January 1, 2001, but it is unknown how much will be provided to the respective districts and what the cost will be to apply for the money, etc.

Mr. Mishlove related that school districts, charter schools, and State-supported institutions, such as the ASDB, must adhere to non-supplanting requirements in order to receive federal dollars. For example, a school district would have to maintain or increase the level of State aid. He added that he believes the requirement is in statute.

Chairman Knaperek said she does not want anyone to think the Committee is salivating over Medicaid dollars and Group B weights will not be increased because of those dollars, but the Committee needs to know what is going on with Medicaid funds.

Mr. Hunter commented that it is not ATRA's intention that any supplanting of revenue occur or the cost study be used toward that end. With an intergovernmental agreement (IGA) taking place between the Arizona Health Care Cost Containment System (AHCCCS) and the Arizona Department of Education (ADE), the cost study two years hence would be a perfect opportunity to review the relationship between Medicaid funds and special education. He added that B weights are intended to increase the amount of revenue a school district receives in relation to the number of special education B weight category students. The money attached to the student is not necessarily spent on that student, but utilized at the discretion of the district.

Mr. Lockery reviewed recommendations submitted by ADE (Attachment 2).

Mr. Mishlove, referring to Item #2, explained that resource students under Group B weights receive less funding than Group B students in self-contained programs. It is imperative to remove the perception that there is a differentiation or that individuals would choose a self-contained category versus a resource category because more money is generated. He clarified that the recommendation is to determine how to blend the two categories at a satisfactory level of funding and remove the designations of resource and self-contained.

Mr. Mishlove indicated to Ms. Irvin that for Item #2, he hopes a comprehensive study by the Auditor General would address the actual cost associated with providing services to all children with

disabilities, not just Group B children focused on within the cost study. The intent would be to more accurately identify costs associated with the provision of special education services. There are some very, very high cost students who are Group A, and although the Legislature has been very generous in the last several years with Group B increases, the cost study demonstrates that there are still significant shortfalls. Many people could assume the shortfalls are due to not knowing the exact cost of providing services to Group A students. Discussion followed about the relationship between Items #2 and #3.

Chairman Knaperek referred to Item #3 and asked if some people in Group A weights should possibly be changed to Group B. Mr. Mishlove said that might be a possible option as a result of the cost study, if the study included all of the Group A categories. For example, a mildly delayed preschooler is Group A, but there is not a comparative body of students in the school system to generate additional Group A dollars because preschoolers with disabilities are the only ones serviced. In that case, it may be realistic to make those students Group B as well.

Mr. Hunter said he believes the Committee should proceed with extreme caution before creating new categories with a financial incentive to place students inappropriately. Senator Huppenthal stated that the system is currently well balanced in that children are not classified as Group A or Group B for the money, and he would not like to see internal imbalances developed whereby students are labeled to draw down money.

Mr. Mishlove acknowledged that a general fund appropriation would probably be needed for the catastrophic impact fund in Item #4. He explained to Mrs. Gray that ADE often receives requests from school districts for funding of students who enter a district after the budget is developed (which is difficult for ADE to provide). It could be a student with very serious disabilities, which would require placement in a private day treatment facility where the tuition may be \$15,000 to \$20,000. For some schools, especially smaller schools, that is a significant portion of the budget. In terms of federal dollars, there is a December 1 child count so that money would remain in whatever district the child was in on December 1. For State aid, the money would not follow the student.

Mrs. Gray raised a concern about school districts dismissing special needs children who are taken in by charter schools without funding, then the public school welcomes the student back at the beginning of the next year because funding would be received for the student. The same concern applies if a high expense student leaves a public school to attend another school and the money does not follow. She explained that the statute stipulates that special needs children can be excluded from school because of discipline problems. Students can return, but must attend another school during the expulsion time.

Mr. Mishlove indicated that if the expelled student has a disability, the school district or charter school is responsible for continuation of services for that child. Where the services would be provided is up to the Individualized Education Plan (IEP) team. The school district the child is enrolled in is responsible for insuring a free appropriate public education and cannot cease the provision of services. If it is determined that the child can continue to receive services in another district, there may be a contract between the sending and receiving district for provision of services, but a district or charter school cannot "wash its hands" of a student with a disability. Mrs. Gray said the parent was told that the school will expel the child, but if the child is withdrawn from school, the expulsion will not be hanging over the child's head.

Mr. Hunter stated that school district funding and charter school funding are very different and function much the same for special education students and non-special education students. For

budget purposes, the Average Daily Membership (ADM) is counted on the 100th day. If, in the subsequent year, the school district's ADM changes, adjustments are made; therefore, if a student begins after the 100th day and the district calls ADE asking for funding to recognize the student, accounts are eventually settled. The student is counted at the previous school and the next for at least 20 days when accounts are settled in the following year, so the student is counted doubly for a number of days. That does not happen if a transfer is made between charter schools because real-time funding is used.

Mr. Lockery reviewed recommendations submitted by Ms. Rogers (Attachment 3).

Mr. Hunter clarified that for Item #4 of ATRA's recommendations, which is similar to Ms. Rogers' final recommendation, he envisioned a process similar to the Florida model discussed at the previous meeting.

Ms. Norris stated that when she visited the ASDB, she found that vouchers are available for special education students, but not regular students, because some local school districts do not provide the services necessary; therefore, the State has the ASDB and local programs to provide special needs. She also learned that it is very difficult to provide all of the services that are necessary because there are so many different types of disabilities, and more than half of the students at ASDB have multiple disabilities. She was told that within the next five to ten years 40 percent of the special education providers will be retiring and there are not near enough replacement teachers at the universities. Teachers are only paid about \$22,000 per year to begin, which is not enough, and other states pay much more. She speculated that private schools might not want to participate in vouchers because it is so costly and there will not be enough providers. She is not sure a voucher program would take care of the underlying need at this point.

Mr. Hunter noted that current vouchers in the State are not parental choice vouchers. The Committee would be looking for mechanisms to empower parental choice akin to the Florida model. In Florida, a surprising number of private institutions were able to absorb the program and accommodate students and parents who opted out of the public school system. He said it is questionable if that could occur in Arizona and some research is needed.

Mr. Lockery reviewed recommendations submitted by Craig Carter, Director of Special Services, Washington Elementary School District (Attachment 4).

Craig Carter, Director of Special Services, Washington Elementary District, clarified that he recommends using current funds through a Request for Procurement (RFP) process for a more independent cost study analysis. He noted that the Center for Special Education Finance (CSEF) has the needed expertise to conduct the study and has provided technical assistance to a number of states.

Mr. Mishlove clarified that currently an RFP is put out and bid on by Certified Public Accountants (CPA).

Mr. Carter suggested expanding the RFP process by sending an RFP to CSEF or allowing bidding from outside Arizona.

(Tape 1, Side B)

Mr. Hunter pointed out that CSEF receives funding from the United States Department of Education

and asked if a cost study by CSEF would be less expensive than a local accounting firm because of those monies. Mr. Carter responded that some subsidy is received by CSEF, but he does not know if the cost would be less. Mr. Hunter indicated that CSEF probably has much more expertise than a local accounting firm because the organization has reviewed and created many finance systems across the State. He read several CSEF studies and believes a study by CSEF would be credible. He questioned if it would cost the State less or if the State would receive "more bang for the buck" if CSEF is included in the RFP process. Mr. Mishlove replied that he does not know, but offered to present the proposal to ADE.

Chairman Knaperek surmised that the Committee likes the idea, but noted that she is not sure if it would have to be done statutorily or merely by making a recommendation to ADE. She added that the Committee would have to make a recommendation for legislation to keep the Committee in place. Ms. Irvin opined that the Committee is still needed, especially because of the unknown regarding direct reimbursement for Medicaid dollars for direct services.

Amy Hyman, Legislative Liaison, Governor's Council on Developmental Disabilities, stated that regulations of the Individuals with Disability Education Act (IDEA) regarding transfer of parental rights states that a transfer of educational rights only to the parent is allowable if it is written into State law. She spoke with Mr. Lockery and Chairman Knaperek about introducing legislation to place a provision in State law similar to a power of attorney for educational rights only that would be in the best interest of the student. The child would not be deemed incapacitated or incompetent, but the parent would have final decision-making rights on behalf of the individual over the age of 18. A power of attorney would be signed by the student and parent that could be revoked if it is not workable. She added that it does not have to be a parent, but an advocate for the student, a surrogate parent, or someone acting on behalf of the particular individual, as long as the person is over the age of 18. Authorization would be in effect until the student reaches age 22. If the student turns 22 mid-year, as long as the student is going to school that September, the student is entitled to finish out the year. The power of attorney would be good for one year and would be reviewed each year by the student.

Ms. Hyman related to Mr. Hunter that if the young adult is adamant about a particular educational issue and a power of attorney was signed, she hopes the young adult's considerations would be taken as a point of reference when deciding educational options; however, if the power of attorney is used, the parent would have the last right of expressing what is in the best interest of the individual.

She noted that this power of attorney would not have to be part of a courtroom procedure and would be used as the student reaches the majority age of 18 when the school transfers rights to the child and the child is deemed competent and able to make educational decisions. The only recourse a family member currently has to remain part of the student's educational process is to obtain guardianship, which is a legal process. The young adult is deemed adjudicated incapacitated on all levels and cannot vote, decide to marry, change jobs, etc. The proposed power of attorney offers another option for parents that is revocable and must be agreed on and signed by both individuals. It must also be notarized.

Mr. Mishlove stated that he recently received a draft from the Arizona Center for Disability Law, and ADE fully supports the proposal.

Ms. Hyman stated that another issue is portability and maximizing financial resources. The Council would like to review the option of transferring assistive technology for children from one phase to another, i.e., preschool to the school environment, changing schools within the district, and providing

the option for families to purchase and maintain assistive equipment when a child leaves high school. She added that she proposed draft legislation allowing for portability of assistive technology.

Jill Oberstein, Director, Arizona Technology Access Program, remarked that there is an issue regarding devices not following a student if the student moves to a new school district, transitions from preschool into the K-12 program, or leaves high school and enters a vocational program. Often the device stays with the school because it was purchased by the school. She said she believes the proposal would help students maintain an educational program and save money. School districts would have an opportunity to recoup the cost or partial cost of the equipment, and the district receiving the student would not have to invest the time and money to re-evaluate the student and customize devices, which requires a significant amount of staff time.

Chairman Knaperek asked if current law allows for transfer of equipment with the child and reimbursement from the other district. Ms. Oberstein said she does not know if that law exists, but understands that this is an issue due to procurement policies.

Ms. Irvin indicated that her district is K-8 and equipment purchased through federal dollars is transferred to the high school with permission of ADE and a letter on file. As long as a record is kept, reimbursement is not necessary. Mr. Carter related that the Washington School District transfers assistive devices to other districts and the devices are typically purchased with federal funds. Chairman Knaperek opined that if a device is customized for a student, it does not make sense for the school to keep the device after the student leaves. She observed that some schools have portability and some do not.

Ms. Oberstein speculated that when a student leaves high school could be another issue. She believes there are IGAs for vocational rehabilitation, but she is not sure if the option is universal across-the-board or if a parent can purchase the equipment.

Ms. Rogers said she encountered the same situation personally. While going through the process of requesting a communication device, various funding agencies had to be checked off, so AHCCCS was used for State health insurance. The device was never provided by the district. She asked if devices are usually purchased by school districts or if individuals must apply for funding and then the devices become the possession of the disabled person. Ms. Oberstein replied that if a child's IEP requires certain technology, the district is obligated to acquire the device.

Ms. Norris stated that this issue was brought up during the visit to ASDB. She was told that many times assistive devices are not actually what is needed because the school district must obtain three quotes. Sometimes the lowest is not what is best suited to the child's needs. Ms. Oberstein said she has heard of that happening and does not believe it has to occur.

Chairman Knaperek surmised that the problem may not be in the procurement code, but someone's interpretation, since people who understand are apparently able to transfer, obtain the proper equipment, etc., and perhaps others who do not understand take the lowest bid even if it does not meet the needs of the child, which does not make sense.

Mr. Lockery directed the Members' attention to a memorandum regarding issues discussed in the Committee to Date (Attachment 5). He stated that a meeting was held with Joint Legislative Budget Committee (JLBC) staff, Legislative Council staff, ADE, the Center for Disability Law, Senator Bennett, and a few other individuals, to discuss the memorandum. As a result, Chairman Knaperek chose six specific recommendations:

- Quality of services and quality incentives issues.
- Establishment of a pilot program for school districts to utilize monies to assist in paying for special education services through integration of services at the local level. School districts would be required to apply to the ADE for grants from a services integration fund that would need to be established. Monies could not be used to supplant any current monies, but solely to supplement. A minimum of one rural school district would be included in the pilot program.
- School choice grant issues.
- A bill sponsored by Chairman Knaperek last year to fully fund special education using the weights from the JLBC report as determined through the special education cost study.
- Require ADE to research all best practices of special education programs in Arizona and throughout the country. The programs would be evaluated to determine the appropriateness of each program. ADE would develop a web site for the public, parents, and schools as a clearinghouse for the information. ADE would also be required to report to the Legislature each biennium about best practices.
- Require the Auditor General to audit a minimum of 10 percent of the special education programs in the State, including rural areas, as to the appropriateness, effectiveness, monitoring, severity of labeling issues, shortage of workers/service providers, both voucher programs currently in effect, and ADE's evaluation of special education programs and appropriateness. The audit would occur every five years beginning in 2003 (so any potential legislation passed would have a few years to go into effect and coincide with the requirement for ADE to have a report by July 1, 2002, giving the Auditor General time to review that after it is already in effect).

Mr. Lowery noted that Chairman Knaperek opened a bill folder for a House Concurrent Memorial (H.C.M.) to be sent to Congress and the President requesting that the federal government fully fund all special education programs at the 40 percent federal share. Chairman Knaperek pointed out that it is merely a formal request, which should not preclude sending a letter as a Committee to the congressional delegation. Mr. Lockery stated that he is in the process of drafting a letter, which he hopes to have completed to coincide with the Committee report.

Referring to Item #2 of her recommendations, Chairman Knaperek related that there is a current pilot program called Children's Integrated Delivery Systems in schools (CIDS), which involves the Kyrene School District, Tempe Elementary School District, and Tempe Union School District, as well as some State agencies that deliver services. Children with more than one diagnosis must go to different agencies for services and an attempt is being made to find a way to integrate services. Application would only be necessary once at the school and dollars would be shared amongst the agencies to deliver services to the child at the school. For example, if a child needs a physical therapist, the same therapist could be used in the school setting as well as home. She indicated that she thought the same concept might be a way to tackle the funding mechanism as well as help school districts and families and provide better services to the child. She added that she does not know if it would take the place of the catastrophic pool that ADE recommended. Possibly it could overlap or those might be two separate issues. Eventually she would like to see everybody use the integrated model, so the catastrophic fund would not be needed, but it is probably still needed now.

Chairman Knaperek advised the Members that Senator Huppenthal had to leave, but left a note with the following recommendations:

- Parental choice grant program from the Florida model.
- Catastrophic fund.

- Concern, perhaps opposed, to blending Group A and Group B.

Mr. Mishlove advised Mr. Hunter that Item #1 of the ADE recommendations does not mean that every single dollar must go to special education. The intent is to establish criteria to insure that a significant portion of funding goes to special education. Often significant amounts of funds are taken out of the general maintenance and operation (M&O) funds and provided to special education, and those funds should be replenished if that occurs. Mr. Hunter agreed, but added that he is not sure it makes sense to require school districts to spend the money on special education students if the cost reaches a certain level and there is more than enough Medicaid revenue. In that case, the money should be spent however the school district chooses.

Chairman Knaperek stated that she believes most of the money should go to special education also, but she did not know it could be used for prevention. Mr. Hunter noted that some prevention activities were questionable across the country and in Arizona, such as a toothbrush fair at Tucson Unified School District (TUSD). Chairman Knaperek indicated that the Committee needs to find out what those dollars should be used for and clarify appropriate spending.

Mr. Lockery made a list of items the Members chose to consider as recommendations. Discussion followed among the Members concerning placement-neutral funding.

(Tape 2, Side A)

Mr. Lockery advised Ms. Norris that the ADE report would be a clearinghouse for school personnel, parents, and the public that contains information regarding special education. Ms. Norris suggested finding out what is currently offered because there seems to be a difference between what is in the law and what is practiced. Chairman Knaperek responded that with the Auditor General's report, she hopes to see what is offered and whether it is effective or not. ADE could include best practices from the report and what other states are doing on the web site.

Mr. Hunter asked the difference between resource and self-contained categories under Group B weights.

Steve Schimpp, Senior Fiscal Analyst, Joint Legislative Budget Committee (JLBC), referred to Title 15-943 and compared weights for children with specific disabilities, showing that more money is received for children placed in resource settings than self-contained settings. He noted that there is no consistent pattern to the process. He related that he was not around when the system was designed, but he believes the intent in terms of voucher funding was that districts were funded on a prior-year basis and had to wait a full year for funding if the school had a real expensive student. He said he is not sure of the rationale when weights were established 15 to 20 years ago, but those have been changed pursuant to what the cost study identified. He noted that the cost study splits out the weights between resource and self-contained, whereas the statute does for some, but not all.

Mrs. Gray referred to Mr. Carter's recommendations to use Legislative funds set aside for the biennial cost study and asked how much is in the fund. Mr. Schimpp responded that the fund receives about \$260,000 per year. It takes two years to conduct the study, so the fund contains about \$500,000.

Mr. Lockery advised the Members that statutory authority for the Committee ends on December 31, 2000, but the Committee could be continued through legislation or as an Ad Hoc Committee. Chairman Knaperek stated that the Members could continue to meet and hope to get legislation

passed to put the Committee back under statutory authority. The Members conversed and agreed to endorse the following items as Committee recommendations:

Funding:

- Catastrophic fund.
- Parental choice grants.
- Analyze Group B weights, and if necessary, fully fund Group B weights per the last cost study.
- H.C.M.
- Service integration fund (pilot program).
- Pursue the study of blending self-contained and resource Group B weights.

Medicaid:

- Clarify reimbursement provisions by insuring that significant portions go specifically to special education services.
- Make sure Medicaid and IDEA revenues are included in the cost study.

Cost Study:

- Expand the special education cost study outside and inside the State to groups with expertise in the field and put it back into the cost study currently done for Group A disability and associated costs.

Miscellaneous:

- Continue the Study Committee and change the makeup.

(Tape 2, Side B)

- Auditor General audit.
- ADE report.
- Transfer of parental rights.
- Research assistive devices.

Each Member related priorities from the Committee recommendations. Chairman Knaperek asked Mr. Lowery to list the priorities from highest to lowest and disseminate a copy to everyone. Mr. Lowery advised that staff will complete the recommendations and compile a report including agendas, minutes, handouts, and final recommendations.

Public Testimony

David Demland, representing himself, commended the Committee for the work that has been done. He noted that he is very enthusiastic about the concept of vouchers, particularly the Florida model, and he appreciates that recommendation. He said that while listening to the discussion concerning neutral-placement funding, he and his wife remembered that during the first meeting with the IEP team, after their son was forced into the public school, the team wanted to place his son in a self-

contained setting. He and his wife objected and today found out that at least one of the categories he is in would earn 32 percent more funding in a self-contained setting. He submitted that the issue should be addressed because he believes some districts are abusing the classification.

Mr. Demland stated that assistive technology is very important and fingers were pointed in every direction about who would supply equipment for his son for home use. If he has to pay for it, a new computer system for home would be needed and over \$800 worth of software. He said there is a need to clarify who will take care of the devices. He added that he supports continuation of the Committee.

Closing Remarks

Chairman Knaperek said she thought this would be a fairly easy Committee at the onset, but it quickly became complicated. She noted that a tremendous amount of work has been done and she appreciates everyone's patience, input, and comments. She added that there is more to do and expressed an intent to make sure special education works as well as possible for families and children during the last two years of her term. She asked anyone with questions to give her a call.

Without objection, the meeting adjourned at 4:05 p.m.

Linda Taylor, Committee Secretary

(Original minutes, attachments, and tapes are filed in the Office of the Chief Clerk. A copy of the minutes and attachments are filed with the Senate Secretary.)

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AND REGULATIONS
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